The within Conditional Sale Agreement and Agreement and Assigment have been executed in 20 conterparts, each consisting of six original copies, of which this is counterpart number 10 .

CONDITIONAL SALE AGREEMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

UNION PACIFIC RAILROAD COMPANY

RECORDATION NO. 6171-A Filed & Recorded
AUG 16 1971 -9 30 AM
INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

THE CHASE MANHATTAN BANK, (N.A.), as Agent

CONDITIONAL SALE AGREEMENT, dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally, the Manufacturer, or collectively or severally called the Vendor as the context may require, all as more particularly set forth in Article 27 hereof) and Union Pacific Railroad Company, a Utah corporation (hereinafter called the Company).

Whereas, the Manufacturers have agreed to construct or cause to be constructed and to sell and deliver to the Company and the Company has agreed to purchase, the new and rebuilt railroad equipment described in Schedule A attached hereto (hereinafter called the Equipment);

Now, Therefore, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

Article 1. *Construction and Sale.* Pursuant to this Agreement, each Manufacturer shall construct or cause to be constructed and shall sell and deliver to the Company and the Company shall, subject to the provisions of this Agreement, purchase from such Manufacturer and accept delivery of and pay for (as hereinafter provided) the units of the Equipment which are described in Schedule A hereto to be constructed by or for, and sold and delivered, by the Manufacturer, each unit of which will be constructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof

as may have been agreed upon in writing by the Manufacturer and the Company (which specifications and modifications, if any, are hereinafter called the Specifications). Each Manufacturer agrees that the design, quality, and component parts of the Equipment will conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new and rebuilt equipment and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to new and rebuilt railroad equipment of the character of such units.

ARTICLE 2. *Delivery.* Each Manufacturer will deliver its units of the Equipment to the Company, freight charges prepaid, at the point specified in, and in accordance with, the delivery schedule set forth in Schedule A hereto, or at such other point and time as the Manufacturer and the Company may mutually agree upon.

The Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond its reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 2 and except as hereinbelow provided, any Equipment not delivered and accepted under this Agreement on or before November 30, 1971 shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement unless the Company, with the written consent of the Manufacturer of such units and its assignee or successor assignee, in the event of an assignment or successive assignments of this Agreement as contemplated in Article 15 hereof, shall elect to include such units of Equipment within this Agreement and shall, prior to November 30, 1971, actually deliver to the Manufacturer in writing, notice

of such election and furnish the Manufacturer with a copy of such written consent. In the event of any such exclusion, the Company and the Manufacturer shall execute an agreement or agreements supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom in such form as may be necessary for the proper filing and recording thereof in all offices where this Agreement shall at the time be filed or recorded. If the Manufacturer's failure to deliver, on or before November 30, 1971, all the Equipment, resulted from one or more of the causes referred to in the preceding paragraph, the Company shall nevertheless be obligated to accept such excluded equipment, and the Company and the Manufacturer shall execute a separate agreement or agreements providing for the purchase of such excluded Equipment by the Company, on the terms herein specified, payment to be made either in cash on delivery of such Equipment or, in the case the Company shall arrange therefor, by means of a conditional sale, equipment trust, or such other appropriate method of financing the purchase, as the Company shall determine and as shall be reasonably acceptable to the Manufacturer.

From time to time upon the completion of the construction of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector or other authorized representative of the Company for inspection at the place designated for delivery of such unit or units, and if such unit or units conform to the Specifications, requirements and standards applicable thereto, and if delivery is accepted, such inspector or authorized representative of the Company shall execute and deliver to the Manufacturer, in such number of counterparts as may reasonably be requested, a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been delivered to the Company hereunder in accordance with this Agreement, have been inspected and accepted by him on behalf of the Company, conform to the specifications applicable thereto, to all applicable Interstate Commerce Commission requirements and Specifications and to all standards recommended by the Association of American Railroads and are marked in accordance with Article 6

hereof. Each Certificate of Acceptance shall be conclusive evidence that the units of Equipment covered thereby have been delivered to the Company and conform to the Specifications and are acceptable to the Company in all details; *provided, however,* that the Manufacturer shall not be relieved of its warranties contained in Articles 13 and 14 hereof. The Company shall designate an inspector or representative who shall be reasonably available for presentation of completed units and who shall upon presentation promptly inspect and accept such units as conform with the Specifications. Delivery of any unit of Equipment under the Lease Agreement, dated as of May 1, 1971, between Pacific Car and the Company shall constitute delivery of such unit under the provisions of this Article 2 and the Certificate of Acceptance delivered pursuant to Section 1 of said Lease shall be conclusive evidence that the units described therein have been delivered to and accepted by the Company hereunder on the date of such certificate, provided no such certificate shall be dated prior to June 1, 1971.

The Manufacturer shall bear the risk of loss of each unit of Equipment or damage thereto until delivery to and acceptance by the Company. Upon delivery and acceptance by the Company of a Certificate of Acceptance with respect to any unit of Equipment, the Company shall bear the risk of loss of or damage to such unit.

ARTICLE 3. *Purchase Price and Payment.* The base price or prices per unit of the Equipment are set forth in Schedule A hereto. The base price or prices include estimated freight charges from the respective Manufacturer's plant to the point of delivery and taxes, if any, and shall be subject to increase or decrease, to the extent contemplated in the purchase order referred to in Schedule A hereof, or, as may be otherwise mutually agreed upon by the Manufacturer and the Company. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased.

For the purpose of making settlement, all the Equipment shall be divided into groups (each such group being hereinafter called a Group), each Group to consist of all units of

the Equipment, delivered to and accepted by the Company in the calendar month preceding (or in respect of the final Group, preceding or on, as the case may be) the Closing Date (fixed as hereinafter provided) in respect of such Group.

Subject to the provisions of this Article 3, the Company hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment to be constructed and sold by such Vendor, as follows:

(*a*) On the Closing Date, with respect to each Group, an amount equal to (i) 20% of the aggregate Purchase Price of all units of Equipment in such Group, as stated in the invoice or invoices therefor (hereinafter called the Group Invoiced Purchase Price), plus (ii) the amount if any, by which 80% of such Group Invoiced Purchase Price, when added to 80% of the sum of the Group Invoiced Purchase Prices of all other units of the Equipment for which settlement has theretofore been, and is then being, made exceeds the sum of (x) $21,550,000 plus (y) any amount previously paid under clause (ii) of this subparagraph (a);

(*b*) On the next succeeding Closing Date following receipt from each Manufacturer of its final certificate (hereinafter called the Final Certificate) of the aggregate Purchase Price for all of its units in all Groups settled for as provided herein, the amount, if any, by which the final aggregate Purchase Price of all such units, as stated therein (hereinafter called the Final Invoiced Purchase Price), shall exceed the sum of the Group Invoiced Purchase Prices of all such units; and

(*c*) In five substantially equal consecutive annual instalments, as hereinafter provided, an amount equal to 80% of the sum of the Group Invoiced Purchase Prices of all units of the Equipment to be sold by such Vendor (hereinafter called the Conditional Sale Indebtedness) less the amounts paid or payable in respect thereof pursuant to clause (ii) of subparagraph (a) of this paragraph, *provided, however,* that, in case

the amount payable pursuant to this subparagraph (c) shall not, when divided by 5, result in an amount ending in an integral cent, the final instalment shall be appropriately adjusted.

If this Agreement shall be assigned by any Manufacturer, the obligations of the Company under subparagraphs (a) and (b) of the preceding paragraph of this Article 3 shall be unsecured obligations, and the Manufacturer shall not have any lien on, or claim against, any unit of the Equipment or any part thereof in respect of such obligations.

The first instalment of the Conditional Sale Indebtedness shall be payable on July 15, 1973 and subsequent instalments shall be payable annually thereafter on July 15 of each year, to and including July 15, 1977. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the respective Closing Dates, regardless of any postponement thereof pursuant to the provisions of any assignment of this Agreement, at the rate of 7.25% per annum and shall be payable, to the extent accrued, semi-annually on January 15 and July 15 in each year, commencing January 15, 1972.

The Final Certificate and final invoice shall be delivered by each Manufacturer on or before December 15, 1971, and, if not so delivered, the Final Invoiced Purchase Price of the units of the Equipment shall be, for all purposes of this Agreement, the sum of the Group Invoiced Purchase Prices of such units. The Manufacturer agrees that the Group Invoiced Purchase Prices shall be so fixed that they will not in the aggregate exceed the Final Invoiced Purchase Price.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date not prior to August 15, 1971, and not later than December 31, 1971, and not more than 15 business days following presentation to the Company of the Certificates of Acceptance and the invoice or invoices for such Group, as shall be fixed by the Company by written notice delivered to the Vendor at least 7 business days prior to the Closing Date designated therein. The term

"business days" as used herein means calendar days, excluding Saturdays, Sundays, holidays and days on which banking institutions are authorized by law to close.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Company will pay, to the extent legally enforceable, interest at 8% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Payments to Manufacturers shall be made in Federal Funds. In the event of an assignment by a Manufacturer of its right to receive any payment hereunder as hereinafter contemplated, such payment to its assignee shall be made in New York Clearing House funds. In any case where the date of a payment provided for in this Agreement shall be, in the City of New York, a Saturday, Sunday, a holiday or a day on which banking institutions are authorized by law to close, then such payment need not be made on such date but may be made on the next succeeding business day and such extension of time shall, in any case, be included in computing interest, if any, in connection with such payment.

Except as provided in Article 7 hereof, the Company shall not have the privilege of prepaying any instalment of its indebtedness hereunder, prior to the date it becomes due.

Article 4. *Taxes.* All payments to be made by the Company hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor in respect of the amount of any local, state or federal taxes (other than income, gross receipts [except gross income or gross receipts taxes in the nature of sales taxes] excess profits and similar taxes) or license fees, fines or penalties hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment,

the Vendor's rights hereunder in respect thereof, the Company will, whenever requested by such assignee, change the names and word or words to be marked on each side of each unit of the Equipment so as to indicate the title of such assignee to the Equipment, with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated by the Company relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the first assignee of this Agreement (or to a successor agent in case, and to the extent that, the first assignee is an agent) of not less than all of the Equipment shall be borne by the Company. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent if the first assignee is an agent) or of an initial assignment of less than all of the Equipment shall be borne by the assignee.

In the event of any such assignment prior to the completion of delivery of the Equipment, the Company will, in connection with each settlement for a Group of Equipment subsequent to such transfer or assignment, deliver to the assignee, at the time of delivery by the Company of notice fixing the Closing Date with respect to such Group, all documents required by the terms of such assignment to be delivered to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested, except for any opinion of counsel for the assignee.

If this Agreement shall have been assigned by a Manufacturer and the assignee shall not make payment to such Manufacturer on the Closing Date with respect to a Group of Equipment of an amount equal to that portion of the aggregate Purchase Price of such Group payable by the Company pursuant to subparagraph (c) of the third paragraph of Article 3 hereof, the Manufacturer will promptly notify the Company and if such amount shall not have been

previously paid to the Manufacturer, the Company will, not later than 90 days after such Closing Date, pay or cause to be paid to the Manufacturer such amount, together with interest thereon from such Closing Date, to the date of payment by the Company at the prime rate of interest charged by The Chase Manhattan Bank, (N.A.) in effect on the date when such payment was due, and in such event the Assignee shall reassign to such Manufacturer, without recourse to the assignee, all of the right, title and interest of the Assignee in and to the units of Equipment with respect to which payment had not been made by the Assignee. In the event that the Company shall pay, or cause to be paid, such amount to a Manufacturer, the Company shall be relieved of its indebtedness in respect to the Purchase Price of the Equipment pursuant to subparagraph (c) of the third paragraph of Article 3 hereof to the extent of the amount so paid.

Article 16. *Application of Default and Remedy Provisions.* It is contemplated that coincident with, or shortly after, the execution and delivery of this Agreement, each Manufacturer will assign to a single assignee or to a single agent for several assignees: (a) all of its right, title and interest in and to the Equipment and each unit thereof, to be constructed and sold under this Agreement, when and as severally delivered and accepted, and upon payment to each Manufacturer of the amount required to be paid by any such assignee or agent, (b) all the right, title and interest of such Manufacturer in and to this Agreement in respect to the Equipment to be constructed and sold under this Agreement (except the rights to construct and to deliver, the rights to receive the payments specified in subparagraphs (a) and (b) of the third paragraph of Article 3 and in the final paragraph of Article 15 of this Agreement and without relieving the Company of its obligations to the Manufacturers under Article 14 hereof), and the right to reimbursement for taxes as provided for in Article 4 hereof, and in and to any and all amounts which may be or become due or owing by the Company to the Manufacturer under this Agreement on account of the Company's indebtedness in respect of the aggregate Purchase Price of the Equipment

and interest thereon, and in and to any other sums becoming due from the Company under this Agreement other than those hereinabove excluded; and (c) all of each Manufacturer's rights (except as aforesaid), powers, privileges and remedies under this Agreement. It is the intent of the parties to this Agreement that if, following any such assignment by a Manufacturer to an assignee or a single agent for several assignees, an Event of Default shall have occurred and be continuing as hereinafter provided in Article 17 of this Agreement in respect of any obligation of the Company to the Manufacturer so assigned, such assignee or agent shall be entitled to enforce all of the assigned rights, powers, privileges and remedies of such Manufacturer under this Agreement.

Article 17. *Defaults.* In the event that any one or more of the following Events of Default shall occur and be continuing, to wit:

(*a*) The Company shall fail to pay in full any portion of the Conditional Sale Indebtedness or any other sum payable by the Company under this Agreement within five days after payment thereof shall be due hereunder; or

(*b*) The Company shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(*c*) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Company and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Company under this Agreement shall not have been duly assumed in writing,

pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(*d*) Any proceedings shall be commenced by or against the Company for any relief which includes, or might result in, any modification of the obligations of the Company hereunder, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but only so long as such stay shall continue in force or such ineffectiveness shall continue) and all the obligations of the Company under this Agreement shall not have been duly assumed in writing pursuant to a court order or decree by a trustee or trustees or receiver or receivers appointed for the Company or for its property in connection with any such proceedings, or otherwise given the same status as obligations assumed by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(*d*) The Company shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an Event of Default the Vendor may, upon written notice to the Company and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, declare the entire indebtedness in respect of the unpaid

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared W. S. Cole, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Vella)
Notary Public

ELIZABETH L. GALPINE (VELLA)
Notary Public, State of New York
No. 30-6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971, Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971 Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

of the Company to purchase or provide a purchaser, within 10 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. To the extent not prohibited by any such requirements of law, the Vendor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale without accountability to the Company (except to the extent of surplus money received as hereinafter provided in this Article 18), and in payment of the purchase price therefor the Vendor shall be entitled, to the extent not prohibited as aforesaid, to have credited on account thereof all sums due to the Vendor from the Company hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Company shall pay the amount of such deficiency to the Vendor upon demand, and, if the Company shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Company. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Company.

previously paid to the Manufacturer, the Company will, not later than 90 days after such Closing Date, pay or cause to be paid to the Manufacturer such amount, together with interest thereon from such Closing Date, to the date of payment by the Company at the prime rate of interest charged by The Chase Manhattan Bank, (N.A.) in effect on the date when such payment was due, and in such event the Assignee shall reassign to such Manufacturer, without recourse to the assignee, all of the right, title and interest of the Assignee in and to the units of Equipment with respect to which payment had not been made by the Assignee. In the event that the Company shall pay, or cause to be paid, such amount to a Manufacturer, the Company shall be relieved of its indebtedness in respect to the Purchase Price of the Equipment pursuant to subparagraph (c) of the third paragraph of Article 3 hereof to the extent of the amount so paid.

Article 16. *Application of Default and Remedy Provisions.* It is contemplated that coincident with, or shortly after, the execution and delivery of this Agreement, each Manufacturer will assign to a single assignee or to a single agent for several assignees: (a) all of its right, title and interest in and to the Equipment and each unit thereof, to be constructed and sold under this Agreement, when and as severally delivered and accepted, and upon payment to each Manufacturer of the amount required to be paid by any such assignee or agent, (b) all the right, title and interest of such Manufacturer in and to this Agreement in respect to the Equipment to be constructed and sold under this Agreement (except the rights to construct and to deliver, the rights to receive the payments specified in subparagraphs (a) and (b) of the third paragraph of Article 3 and in the final paragraph of Article 15 of this Agreement and without relieving the Company of its obligations to the Manufacturers under Article 14 hereof), and the right to reimbursement for taxes as provided for in Article 4 hereof, and in and to any and all amounts which may be or become due or owing by the Company to the Manufacturer under this Agreement on account of the Company's indebtedness in respect of the aggregate Purchase Price of the Equipment

and interest thereon, and in and to any other sums becoming due from the Company under this Agreement other than those hereinabove excluded; and (c) all of each Manufacturer's rights (except as aforesaid), powers, privileges and remedies under this Agreement. It is the intent of the parties to this Agreement that if, following any such assignment by a Manufacturer to an assignee or a single agent for several assignees, an Event of Default shall have occurred and be continuing as hereinafter provided in Article 17 of this Agreement in respect of any obligation of the Company to the Manufacturer so assigned, such assignee or agent shall be entitled to enforce all of the assigned rights, powers, privileges and remedies of such Manufacturer under this Agreement.

Article 17. *Defaults.* In the event that any one or more of the following Events of Default shall occur and be continuing, to wit:

(*a*) The Company shall fail to pay in full any portion of the Conditional Sale Indebtedness or any other sum payable by the Company under this Agreement within five days after payment thereof shall be due hereunder; or

(*b*) The Company shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(*c*) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Company and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Company under this Agreement shall not have been duly assumed in writing,

pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(*d*) Any proceedings shall be commenced by or against the Company for any relief which includes, or might result in, any modification of the obligations of the Company hereunder, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but only so long as such stay shall continue in force or such ineffectiveness shall continue) and all the obligations of the Company under this Agreement shall not have been duly assumed in writing pursuant to a court order or decree by a trustee or trustees or receiver or receivers appointed for the Company or for its property in connection with any such proceedings, or otherwise given the same status as obligations assumed by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(*d*) The Company shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an Event of Default the Vendor may, upon written notice to the Company and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, declare the entire indebtedness in respect of the unpaid

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared W. S. Cole, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Vella)
Notary Public

ELIZABETH L. GALPINE (VELLA)
Notary Public, State of New York
No. 30-6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

the Vendor's rights hereunder in respect thereof, the Company will, whenever requested by such assignee, change the names and word or words to be marked on each side of each unit of the Equipment so as to indicate the title of such assignee to the Equipment, with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated by the Company relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the first assignee of this Agreement (or to a successor agent in case, and to the extent that, the first assignee is an agent) of not less than all of the Equipment shall be borne by the Company. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent if the first assignee is an agent) or of an initial assignment of less than all of the Equipment shall be borne by the assignee.

In the event of any such assignment prior to the completion of delivery of the Equipment, the Company will, in connection with each settlement for a Group of Equipment subsequent to such transfer or assignment, deliver to the assignee, at the time of delivery by the Company of notice fixing the Closing Date with respect to such Group, all documents required by the terms of such assignment to be delivered to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested, except for any opinion of counsel for the assignee.

If this Agreement shall have been assigned by a Manufacturer and the assignee shall not make payment to such Manufacturer on the Closing Date with respect to a Group of Equipment of an amount equal to that portion of the aggregate Purchase Price of such Group payable by the Company pursuant to subparagraph (c) of the third paragraph of Article 3 hereof, the Manufacturer will promptly notify the Company and if such amount shall not have been

previously paid to the Manufacturer, the Company will, not later than 90 days after such Closing Date, pay or cause to be paid to the Manufacturer such amount, together with interest thereon from such Closing Date, to the date of payment by the Company at the prime rate of interest charged by The Chase Manhattan Bank, (N.A.) in effect on the date when such payment was due, and in such event the Assignee shall reassign to such Manufacturer, without recourse to the assignee, all of the right, title and interest of the Assignee in and to the units of Equipment with respect to which payment had not been made by the Assignee. In the event that the Company shall pay, or cause to be paid, such amount to a Manufacturer, the Company shall be relieved of its indebtedness in respect to the Purchase Price of the Equipment pursuant to subparagraph (c) of the third paragraph of Article 3 hereof to the extent of the amount so paid.

Article 16. *Application of Default and Remedy Provisions.* It is contemplated that coincident with, or shortly after, the execution and delivery of this Agreement, each Manufacturer will assign to a single assignee or to a single agent for several assignees: (a) all of its right, title and interest in and to the Equipment and each unit thereof, to be constructed and sold under this Agreement, when and as severally delivered and accepted, and upon payment to each Manufacturer of the amount required to be paid by any such assignee or agent, (b) all the right, title and interest of such Manufacturer in and to this Agreement in respect to the Equipment to be constructed and sold under this Agreement (except the rights to construct and to deliver, the rights to receive the payments specified in subparagraphs (a) and (b) of the third paragraph of Article 3 and in the final paragraph of Article 15 of this Agreement and without relieving the Company of its obligations to the Manufacturers under Article 14 hereof), and the right to reimbursement for taxes as provided for in Article 4 hereof, and in and to any and all amounts which may be or become due or owing by the Company to the Manufacturer under this Agreement on account of the Company's indebtedness in respect of the aggregate Purchase Price of the Equipment

and interest thereon, and in and to any other sums becoming due from the Company under this Agreement other than those hereinabove excluded; and (c) all of each Manufacturer's rights (except as aforesaid), powers, privileges and remedies under this Agreement. It is the intent of the parties to this Agreement that if, following any such assignment by a Manufacturer to an assignee or a single agent for several assignees, an Event of Default shall have occurred and be continuing as hereinafter provided in Article 17 of this Agreement in respect of any obligation of the Company to the Manufacturer so assigned, such assignee or agent shall be entitled to enforce all of the assigned rights, powers, privileges and remedies of such Manufacturer under this Agreement.

Article 17. *Defaults.* In the event that any one or more of the following Events of Default shall occur and be continuing, to wit:

(*a*) The Company shall fail to pay in full any portion of the Conditional Sale Indebtedness or any other sum payable by the Company under this Agreement within five days after payment thereof shall be due hereunder; or

(*b*) The Company shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(*c*) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Company and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Company under this Agreement shall not have been duly assumed in writing,

pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(*d*) Any proceedings shall be commenced by or against the Company for any relief which includes, or might result in, any modification of the obligations of the Company hereunder, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but only so long as such stay shall continue in force or such ineffectiveness shall continue) and all the obligations of the Company under this Agreement shall not have been duly assumed in writing pursuant to a court order or decree by a trustee or trustees or receiver or receivers appointed for the Company or for its property in connection with any such proceedings, or otherwise given the same status as obligations assumed by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(*d*) The Company shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an Event of Default the Vendor may, upon written notice to the Company and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, declare the entire indebtedness in respect of the unpaid

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared W. S. Cole, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Vella)
Notary Public

ELIZABETH L. GALPINE (VELLA)
Notary Public, State of New York
No. 30-6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971, Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971 Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

of the Company to purchase or provide a purchaser, within 10 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. To the extent not prohibited by any such requirements of law, the Vendor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale without accountability to the Company (except to the extent of surplus money received as hereinafter provided in this Article 18), and in payment of the purchase price therefor the Vendor shall be entitled, to the extent not prohibited as aforesaid, to have credited on account thereof all sums due to the Vendor from the Company hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Company shall pay the amount of such deficiency to the Vendor upon demand, and, if the Company shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Company. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Company.

The Company will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may, to the extent permitted by law, recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

ARTICLE 19. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale (which is not overriden by any provision of applicable federal law), shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Company to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any unit thereof, any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Vendor's rights hereunder, and any and all rights of redemption.

ARTICLE 20. *Extension not a Waiver.* No delay or omission in the exercise of any power or remedy herein provided, or otherwise available to the Vendor, shall impair or affect the Vendor's right thereafter to exercise the same. Any extension of time for payment hereunder, or other indulgence duly granted to the Company, shall not otherwise alter or affect the Vendor's rights or the Company's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder

shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 21. *Recording.* The Company will cause this Agreement and any supplements hereto and any assignment hereof (a counterpart of the first such assignment being attached hereto) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and otherwise as may be required by law or reasonably requested by the Vendor, from time to time, for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and the Company will promptly furnish to the Vendor certificates or other evidences of such filing and recording, and an opinion or opinions of counsel for the Company with respect thereto, satisfactory to the Vendor.

ARTICLE 22. *Payment of Expenses.* The Company will pay all reasonable costs and expenses, except the counsel fees of the Manufacturers, incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related thereto, including fees and expenses of counsel for, and including stamp and other taxes, if any, of, the first assignee of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent) and any party or parties acquiring interests in such first assignment, and in connection with the transfer by any party or parties of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 23. *Notice.* Any notice to or demand upon the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage

prepaid, to the Company at 345 Park Avenue, New York, New York 10022 or at such other address as may have been furnished in writing to the Vendor by the Company. Any notice to or demand upon the Manufacturers pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to General Electric at 2901 East Lake Road, Erie, Pennsylvania, to Gunderson, Inc. at 4700 Northwest Front Avenue, Portland, Oregon 97208, to International Car, at 835 Englewood Avenue, Buffalo, New York, to Motor Freight, at 1416 Dodge Street, Omaha, Nebraska, to Pacific Car at 1400 North Fourth Street, Renton, Washington 98005, and to The Darby Products of Steel Plate Corporation, at First and Walker, Kansas City, Kansas or at such other address as may have been furnished in writing to the Company by any such Manufacturer. Unless otherwise herein provided, any notice to or demand upon any assignee of the Vendor or of the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to such assignee at such address as may have been furnished in writing to the Company or the Vendor, as the case may be, by such assignee. An affidavit with respect to such mailing of any notice or demand by the person mailing the same shall be deemed to be conclusive evidence of the giving of such notice or the making of such demand.

Article 24. *Law Governing.* The terms of this Agreement and the 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 rights conferred by Section 20c of the Interstate Commerce Act and to the recording provisions of any other statute pursuant to which this Assignment may be recorded.

Article 25. *Article Headings.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Article 26. *Effect and Modification of Agreement.* No variation of this Agreement and no waiver of any of its pro-

visions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company. This Agreement, including Schedule A attached hereto, exclusively and completely states the rights of the Vendor and the Company with respect to the Equipment and amends and supersedes all other agreements, oral or written, with respect to the Equipment including the Lease Agreement, dated as of May 1, 1971 between Pacific Car and the Company but excepting the Purchase Agreement, dated as of July 1, 1971 between Motor Freight and the Company.

ARTICLE 27. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder each Manufacturer, and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor or assignors as regards any rights hereunder that are retained and excluded from any assignment; and the term "Manufacturer", whenever used in this Agreement, means both before and after any such assignment, the Manufacturer, and any successor or successors for the time being to its manufacturing properties and business.

The term "Company", whenever used in this Agreement, means Union Pacific Railroad Company and also any assignee of its rights under this Agreement pursuant to the first sentence of Article 15 hereof.

ARTICLE 28. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of May 1, 1971, 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.

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 their officers or representatives thereunto duly authorized and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

General Electric Company

By .....
Manager - ~~General Manager~~, *Locomotive*
Marketing *Products Department*

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By W. S. Cook .....
Vice President

Attest:

R. B. Grove
.....
Secretary

STATE OF Pennsylvania
COUNTY OF Erie SS.:

On this 9th day of August, 1971, before me personally appeared C. S. Bressler, to me personally known, who, being by me duly sworn, says that he is the ~~General~~ Manager Marketing ~~Manager~~, Locomotive Products Department 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.

Audrey A. Fromknecht
Notary Public

AUDREY A. FROMKNECHT, NOTARY PUBLIC
ERIE, ERIE COUNTY, PENNSYLVANIA
MY COMMISSION EXPIRES DEC. 9, 1972

STATE OF
COUNTY OF SS.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

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Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared W. S. Cole, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Vella)
Notary Public

ELIZABETH L. GALPINE (VELLA)
Notary Public, State of New York
No. 30-6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971, Erie, Pennsylvania
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Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
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	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

SCHEDULE B

Manufacturer	*Warranty*
General Electric	To repair at the Manufacturer's plant or to deliver to the Company at its plant a new part to replace any part that may fail under normal service within two years after shipment from the Manufacturer's plant or before the unit of Equipment in which such part is located has been 250,000 miles in scheduled service, whichever event shall first occur, because of faulty work done by the Manufacturer or defective material in equipment manufactured by the Manufacturer.
Gunderson Motor Freight	To repair or to deliver to the Company at its plant a new part to replace the defective part or to pay the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchanged Traffic, any part of any unit that may fail under normal service within two years after shipment from the Manufacturer's plant because of inadequate design, faulty work done, or defective material made by the Manufacturer.
International Car Darby	To repair at the Manufacturer's plant or to deliver to the Company at the Manufacturer's plant, a new part to replace any part of any unit that may fail under normal service within one year after shipment from the Manufacturer's plant because of faulty work done or defective material made by the Manufacturer.
Pacific Car	To repair the defect at the Manufacturer's plant or to replace the defective part or to pay the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchanged Traffic, any part of any unit that may fail under normal service within two years after delivery of such unit to the Company.

AGREEMENT AND ASSIGNMENT dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally the Manufacturer) and The Chase Manhattan Bank (National Association), a national banking association with its business address at 1 Chase Manhattan Plaza, New York, New York 10015, acting as Agent under an Agreement dated as of May 1, 1971 (hereinafter called the Finance Agreement) and said banking corporation, so acting being hereinafter called the Assignee.

Whereas, the Manufacturers and Union Pacific Railroad Company, a corporation duly organized and existing under the laws of the State of Utah, with an office in New York, New York (hereinafter called the Company), have entered into a Conditional Sale Agreement, dated as of May 1, 1971 (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Manufacturers and the purchase by the Company of the railroad equipment described in Schedule A to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

Now, Therefore, This Agreement Witnesseth: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Manufacturers, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

Section 1. Each Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(*a*) All of its right, title and interest in and to the Equipment and each unit thereof when and as severally

delivered and accepted under the Conditional Sale Agreement, and upon payment by the Assignee to the Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(*b*) All of its right, title and interest in and to the Conditional Sale Agreement in respect of the Equipment (except the rights to construct or cause to be constructed and to deliver the Equipment and the rights to receive the payments specified in subparagraphs (*a*) and (*b*) of the third paragraph of Article 3 thereof and in the final paragraph of Article 15 thereof) and the right to reimbursement for taxes as provided in Article 4 of the Conditional Sale Agreement, and in and to any and all amounts which may be or become due or owing by the Company to the Manufacturer under the Conditional Sale Agreement on account of its indebtedness in respect of the aggregate Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Company under the Conditional Sale Agreement, other than those hereinabove excluded; and

(*c*) All of the Manufacturer's rights (except as herein limited), powers, privileges and remedies under the Conditional Sale Agreement

(without any recourse, however, against the Manufacturer for or on account of the failure of the Company to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); *provided, however,* that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Manufacturer to construct or cause to be constructed and to deliver the Equipment in accordance with the Conditional Sale Agreement or in respect of its warranties and indemnities contained in Articles 13 and 14 of the Conditional Sale Agreement or relieve the Company from its obligations to the Manufacturer under Articles 1, 2, 3, 4, 13, 14 and 15 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent

assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Company in respect of the Equipment shall be and remain enforceable by the Company, its successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer, 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 compliance by the Company with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

Each Manufacturer agrees that any amount payable to it by the Company, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any of the units of Equipment.

SECTION 2. Each Manufacturer covenants and agrees that it will cause the Equipment to be sold by such Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Company in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by it. Each Manufacturer further covenants and agrees that it will warrant to the Assignee and the Company that at the time of delivery and acceptance of each unit of the Equipment sold by it, it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and as to units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, be-

Fruit Express Company, 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 Manufacturer;

(*b*) Certificate or Certificates of Acceptance signed by an authorized representative of the Company stating that the units of the Equipment of the Manufacturer in such Group have been delivered to the Company in accordance with the Conditional Sale Agreement, have been inspected and accepted by him on behalf of the Company, conform to the Specifications (as defined in the Conditional Sale Agreement) applicable thereto and to all applicable Interstate Commerce Commission requirements and specifications, and to all standards recommended by the Association of American Railroads, reasonably interpreted as being applicable to such equipment, and further stating that there was plainly, distinctly, permanently and conspicuously marked on each side of each of such units at the time of its acceptance, in letters not less than one inch in height, the following legend:

"OWNED BY A SECURED PARTY UNDER A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c".

(*c*) Invoice of each Manufacturer for the units of the Equipment in such Group accompanied by or having endorsed thereon a certification by the Company as to the correctness of the prices of such units as set forth in said invoice;

(*d*) An opinion of Messrs. Cravath, Swaine & Moore, acting as special counsel for the Assignee and the Investors named in the Finance Agreement, dated as of such Closing Date, stating that (i) the Finance Agreement, assuming due authorization, execution and delivery by such Investors, has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Company and the Manufacturers and is a legal, valid and binding instrument enforceable against the Com-

pany and the Manufacturers in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturers and the Assignee and is a legal, valid and binding instrument, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment, (v) security title to the units of the Equipment in such Group is validly vested in the Assignee and such units, at the time of delivery thereof to the Company, were free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement), (vi) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Finance Agreement, the Conditional Sale Agreement or this Assignment, or if any such authority is necessary, it has been obtained, (vii) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Assignee in any state of the United States of America or in the District of Columbia and (viii) registration of the Conditional Sale Agreement, this Assignment or the certificates of interest delivered pursuant to 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 such opinion shall also cover such other matters as may reasonably be requested by the Assignee or such Investors;

(*e*) An opinion of counsel for the Company, dated as of such Closing Date, to the effect set forth in clauses (i), (ii), (iii), (v), (vi) and (vii) of subparagraph (d) of this Section 6 and stating that the Company is a duly organized and existing corporation in good standing under the laws of the State of Utah, its state of incor-

poration, and has the power and authority to own its properties and to carry on its business as now conducted;

(*f*) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the rights, title and interests and powers, privileges and remedies of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Company in accordance with the provisions of the Conditional Sale Agreement, were free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and, as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company, and the Lease of the same date between the Company and Pacific Fruit Express Company;

Fruit Express Company, 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 Manufacturer;

(*b*) Certificate or Certificates of Acceptance signed by an authorized representative of the Company stating that the units of the Equipment of the Manufacturer in such Group have been delivered to the Company in accordance with the Conditional Sale Agreement, have been inspected and accepted by him on behalf of the Company, conform to the Specifications (as defined in the Conditional Sale Agreement) applicable thereto and to all applicable Interstate Commerce Commission requirements and specifications, and to all standards recommended by the Association of American Railroads, reasonably interpreted as being applicable to such equipment, and further stating that there was plainly, distinctly, permanently and conspicuously marked on each side of each of such units at the time of its acceptance, in letters not less than one inch in height, the following legend:

"OWNED BY A SECURED PARTY UNDER A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c".

(*c*) Invoice of each Manufacturer for the units of the Equipment in such Group accompanied by or having endorsed thereon a certification by the Company as to the correctness of the prices of such units as set forth in said invoice;

(*d*) An opinion of Messrs. Cravath, Swaine & Moore, acting as special counsel for the Assignee and the Investors named in the Finance Agreement, dated as of such Closing Date, stating that (i) the Finance Agreement, assuming due authorization, execution and delivery by such Investors, has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Company and the Manufacturers and is a legal, valid and binding instrument enforceable against the Com-

pany and the Manufacturers in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturers and the Assignee and is a legal, valid and binding instrument, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment, (v) security title to the units of the Equipment in such Group is validly vested in the Assignee and such units, at the time of delivery thereof to the Company, were free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement), (vi) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Finance Agreement, the Conditional Sale Agreement or this Assignment, or if any such authority is necessary, it has been obtained, (vii) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Assignee in any state of the United States of America or in the District of Columbia and (viii) registration of the Conditional Sale Agreement, this Assignment or the certificates of interest delivered pursuant to 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 such opinion shall also cover such other matters as may reasonably be requested by the Assignee or such Investors;

(*e*) An opinion of counsel for the Company, dated as of such Closing Date, to the effect set forth in clauses (i), (ii), (iii), (v), (vi) and (vii) of subparagraph (d) of this Section 6 and stating that the Company is a duly organized and existing corporation in good standing under the laws of the State of Utah, its state of incor-

poration, and has the power and authority to own its properties and to carry on its business as now conducted;

(*f*) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the rights, title and interests and powers, privileges and remedies of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Company in accordance with the provisions of the Conditional Sale Agreement, were free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and, as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company, and the Lease of the same date between the Company and Pacific Fruit Express Company;

(*g*) Unless payment of the amount payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, the receipt from the Manufacturer for such payment.

In giving the opinions specified in subparagraphs (*d*) (*e*) and (*f*) of the first paragraph of this Section 6, counsel may qualify any opinion, to the effect that any agreement is enforceable in accordance with its terms, by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion. In giving the opinion specified in said subparagraph (*d*), counsel may rely, as to the authorization, execution and delivery by each Manufacturer of the documents executed by such Manufacturer, and to title to the units of Equipment of such Manufacturer at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for such Manufacturer, and as to any matters governed by the law of any jurisdiction other than New York and the United States, on the opinion of counsel for such Manufacturer or the opinion of counsel for the Company as to such matters.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Company shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account

of the Purchase Price of the Equipment to be settled for on such Closing Date, the Company shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under subparagraph (c) of the third paragraph of Article 3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Company. By any such payment, however, the Company shall not acquire any rights under this Assignment.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement shall constitute an event of default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Company thereunder. 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. In compliance with Article 23 of the Conditional Sale Agreement the address of the Assignee for purposes of notices and payments is The Chase Manhattan Bank, (N.A.), Corporate Trust Administration, 1 Chase Manhattan Plaza, New York, New York 10015 or such other address as the Assignee shall have furnished in writing to the Company.

SECTION 8. Each Manufacturer hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed

and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Company, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and the Company in accordance with its terms and that it is now in force without amendment thereto; and

(*b*) represents and warrants to the Assignee, its successors and assigns, that as of its execution and delivery of this Assignment all of its right, title and interest in and to the Conditional Sale Agreement was free of all claims, liens, security interests and other encumbrances whatsoever; and

(*c*) covenants and 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.

SECTION 9. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Company. Although this Assignment is dated for convenience as of May 1, 1971, 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 terms of this Assignment and the 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 rights conferred by Section 20c of the

STATE OF New York
COUNTY OF New York ss.:

On this 12th day of August 1971, before me personally appeared J. D. HOWARD, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK, (N.A.), 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.

Loretta Jedlicka
Notary Public

LORETTA JEDLICKA
Notary Public, State of New York
No. 31-4500161
Qualified in New York County
Commission Expires March 30, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is hereby acknowledged.

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Dated as of May 1, 1971.

THE CHASE MANHATTAN BANK,
(National Association),
Agent,

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF
COUNTY OF SS.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF Pennsylvania
COUNTY OF Erie SS.:

On this 4th day of August, 1971, before me personally appeared C. S. Bressler, to me personally known, who, being by me duly sworn, says that he is ~~a Vice Presi-~~ Manager-Marketing Locomotive Products Department ~~dent~~ 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.

Audrey A. Fromkheicht
Notary Public

AUDREY A. FROMKHEICHT, NOTARY PUBLIC
ERIE, ERIE COUNTY, PENNSYLVANIA
MY COMMISSION EXPIRES DEC. 9, 1972

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York ss.:

On this 12th day of August 1971, before me personally appeared J. D. HOWARD, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK, (N.A.), 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.

Loretta Jedlicka
Notary Public

LORETTA JEDLICKA
Notary Public, State of New York
No. 31-4500161
Qualified in New York County
Commission Expires March 30, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is hereby acknowledged.

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Dated as of May 1, 1971.

CONDITIONAL SALE AGREEMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

UNION PACIFIC RAILROAD COMPANY

AGREEMENT AND ASSIGNMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

THE CHASE MANHATTAN BANK, (N.A.), as Agent

CONDITIONAL SALE AGREEMENT, dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally, the Manufacturer, or collectively or severally called the Vendor as the context may require, all as more particularly set forth in Article 27 hereof) and Union Pacific Railroad Company, a Utah corporation (hereinafter called the Company).

Whereas, the Manufacturers have agreed to construct or cause to be constructed and to sell and deliver to the Company and the Company has agreed to purchase, the new and rebuilt railroad equipment described in Schedule A attached hereto (hereinafter called the Equipment);

Now, Therefore, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

Article 1. *Construction and Sale.* Pursuant to this Agreement, each Manufacturer shall construct or cause to be constructed and shall sell and deliver to the Company and the Company shall, subject to the provisions of this Agreement, purchase from such Manufacturer and accept delivery of and pay for (as hereinafter provided) the units of the Equipment which are described in Schedule A hereto to be constructed by or for, and sold and delivered, by the Manufacturer, each unit of which will be constructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof

as may have been agreed upon in writing by the Manufacturer and the Company (which specifications and modifications, if any, are hereinafter called the Specifications). Each Manufacturer agrees that the design, quality, and component parts of the Equipment will conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new and rebuilt equipment and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to new and rebuilt railroad equipment of the character of such units.

ARTICLE 2. *Delivery.* Each Manufacturer will deliver its units of the Equipment to the Company, freight charges prepaid, at the point specified in, and in accordance with, the delivery schedule set forth in Schedule A hereto, or at such other point and time as the Manufacturer and the Company may mutually agree upon.

The Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond its reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 2 and except as hereinbelow provided, any Equipment not delivered and accepted under this Agreement on or before November 30, 1971 shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement unless the Company, with the written consent of the Manufacturer of such units and its assignee or successor assignee, in the event of an assignment or successive assignments of this Agreement as contemplated in Article 15 hereof, shall elect to include such units of Equipment within this Agreement and shall, prior to November 30, 1971, actually deliver to the Manufacturer in writing, notice

of such election and furnish the Manufacturer with a copy of such written consent. In the event of any such exclusion, the Company and the Manufacturer shall execute an agreement or agreements supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom in such form as may be necessary for the proper filing and recording thereof in all offices where this Agreement shall at the time be filed or recorded. If the Manufacturer's failure to deliver, on or before November 30, 1971, all the Equipment, resulted from one or more of the causes referred to in the preceding paragraph, the Company shall nevertheless be obligated to accept such excluded equipment, and the Company and the Manufacturer shall execute a separate agreement or agreements providing for the purchase of such excluded Equipment by the Company, on the terms herein specified, payment to be made either in cash on delivery of such Equipment or, in the case the Company shall arrange therefor, by means of a conditional sale, equipment trust, or such other appropriate method of financing the purchase, as the Company shall determine and as shall be reasonably acceptable to the Manufacturer.

From time to time upon the completion of the construction of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector or other authorized representative of the Company for inspection at the place designated for delivery of such unit or units, and if such unit or units conform to the Specifications, requirements and standards applicable thereto, and if delivery is accepted, such inspector or authorized representative of the Company shall execute and deliver to the Manufacturer, in such number of counterparts as may reasonably be requested, a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been delivered to the Company hereunder in accordance with this Agreement, have been inspected and accepted by him on behalf of the Company, conform to the specifications applicable thereto, to all applicable Interstate Commerce Commission requirements and Specifications and to all standards recommended by the Association of American Railroads and are marked in accordance with Article 6

hereof. Each Certificate of Acceptance shall be conclusive evidence that the units of Equipment covered thereby have been delivered to the Company and conform to the Specifications and are acceptable to the Company in all details; *provided, however,* that the Manufacturer shall not be relieved of its warranties contained in Articles 13 and 14 hereof. The Company shall designate an inspector or representative who shall be reasonably available for presentation of completed units and who shall upon presentation promptly inspect and accept such units as conform with the Specifications. Delivery of any unit of Equipment under the Lease Agreement, dated as of May 1, 1971, between Pacific Car and the Company shall constitute delivery of such unit under the provisions of this Article 2 and the Certificate of Acceptance delivered pursuant to Section 1 of said Lease shall be conclusive evidence that the units described therein have been delivered to and accepted by the Company hereunder on the date of such certificate, provided no such certificate shall be dated prior to June 1, 1971.

The Manufacturer shall bear the risk of loss of each unit of Equipment or damage thereto until delivery to and acceptance by the Company. Upon delivery and acceptance by the Company of a Certificate of Acceptance with respect to any unit of Equipment, the Company shall bear the risk of loss of or damage to such unit.

ARTICLE 3. *Purchase Price and Payment.* The base price or prices per unit of the Equipment are set forth in Schedule A hereto. The base price or prices include estimated freight charges from the respective Manufacturer's plant to the point of delivery and taxes, if any, and shall be subject to increase or decrease, to the extent contemplated in the purchase order referred to in Schedule A hereof, or, as may be otherwise mutually agreed upon by the Manufacturer and the Company. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased.

For the purpose of making settlement, all the Equipment shall be divided into groups (each such group being hereinafter called a Group), each Group to consist of all units of

the Equipment, delivered to and accepted by the Company in the calendar month preceding (or in respect of the final Group, preceding or on, as the case may be) the Closing Date (fixed as hereinafter provided) in respect of such Group.

Subject to the provisions of this Article 3, the Company hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment to be constructed and sold by such Vendor, as follows:

(*a*) On the Closing Date, with respect to each Group, an amount equal to (i) 20% of the aggregate Purchase Price of all units of Equipment in such Group, as stated in the invoice or invoices therefor (hereinafter called the Group Invoiced Purchase Price), plus (ii) the amount if any, by which 80% of such Group Invoiced Purchase Price, when added to 80% of the sum of the Group Invoiced Purchase Prices of all other units of the Equipment for which settlement has theretofore been, and is then being, made exceeds the sum of (x) $21,550,000 plus (y) any amount previously paid under clause (ii) of this subparagraph (a);

(*b*) On the next succeeding Closing Date following receipt from each Manufacturer of its final certificate (hereinafter called the Final Certificate) of the aggregate Purchase Price for all of its units in all Groups settled for as provided herein, the amount, if any, by which the final aggregate Purchase Price of all such units, as stated therein (hereinafter called the Final Invoiced Purchase Price), shall exceed the sum of the Group Invoiced Purchase Prices of all such units; and

(*c*) In five substantially equal consecutive annual instalments, as hereinafter provided, an amount equal to 80% of the sum of the Group Invoiced Purchase Prices of all units of the Equipment to be sold by such Vendor (hereinafter called the Conditional Sale Indebtedness) less the amounts paid or payable in respect thereof pursuant to clause (ii) of subparagraph (a) of this paragraph, *provided, however,* that, in case

the amount payable pursuant to this subparagraph (c) shall not, when divided by 5, result in an amount ending in an integral cent, the final instalment shall be appropriately adjusted.

If this Agreement shall be assigned by any Manufacturer, the obligations of the Company under subparagraphs (a) and (b) of the preceding paragraph of this Article 3 shall be unsecured obligations, and the Manufacturer shall not have any lien on, or claim against, any unit of the Equipment or any part thereof in respect of such obligations.

The first instalment of the Conditional Sale Indebtedness shall be payable on July 15, 1973 and subsequent instalments shall be payable annually thereafter on July 15 of each year, to and including July 15, 1977. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the respective Closing Dates, regardless of any postponement thereof pursuant to the provisions of any assignment of this Agreement, at the rate of 7.25% per annum and shall be payable, to the extent accrued, semi-annually on January 15 and July 15 in each year, commencing January 15, 1972.

The Final Certificate and final invoice shall be delivered by each Manufacturer on or before December 15, 1971, and, if not so delivered, the Final Invoiced Purchase Price of the units of the Equipment shall be, for all purposes of this Agreement, the sum of the Group Invoiced Purchase Prices of such units. The Manufacturer agrees that the Group Invoiced Purchase Prices shall be so fixed that they will not in the aggregate exceed the Final Invoiced Purchase Price.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date not prior to August 15, 1971, and not later than December 31, 1971, and not more than 15 business days following presentation to the Company of the Certificates of Acceptance and the invoice or invoices for such Group, as shall be fixed by the Company by written notice delivered to the Vendor at least 7 business days prior to the Closing Date designated therein. The term

"business days" as used herein means calendar days, excluding Saturdays, Sundays, holidays and days on which banking institutions are authorized by law to close.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Company will pay, to the extent legally enforceable, interest at 8% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Payments to Manufacturers shall be made in Federal Funds. In the event of an assignment by a Manufacturer of its right to receive any payment hereunder as hereinafter contemplated, such payment to its assignee shall be made in New York Clearing House funds. In any case where the date of a payment provided for in this Agreement shall be, in the City of New York, a Saturday, Sunday, a holiday or a day on which banking institutions are authorized by law to close, then such payment need not be made on such date but may be made on the next succeeding business day and such extension of time shall, in any case, be included in computing interest, if any, in connection with such payment.

Except as provided in Article 7 hereof, the Company shall not have the privilege of prepaying any instalment of its indebtedness hereunder, prior to the date it becomes due.

Article 4. *Taxes.* All payments to be made by the Company hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor in respect of the amount of any local, state or federal taxes (other than income, gross receipts [except gross income or gross receipts taxes in the nature of sales taxes] excess profits and similar taxes) or license fees, fines or penalties hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment,

delivery or transfer of title under the terms hereof, all of which expenses, taxes and license fees, fines and penalties the Company assumes and agrees to pay on demand in addition to the Purchase Price. The Company will also pay promptly all taxes and assessments which may be imposed upon the Equipment, or for the use or operation thereof by the Company, or upon the earnings arising therefrom, or upon the Vendor solely by reason of its ownership thereof, and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Vendor or result in a lien (other than a Permitted Lien, as defined in Article 12 hereof) upon any unit of the Equipment; *provided, however,* that the Company shall be under no obligation to pay any taxes, assessments, license fees, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise hereunder. If any such expenses, assessments, license fees, charges, fines or penalties shall have been charged or levied against the Vendor directly and paid by the Vendor, the Company shall reimburse the Vendor on presentation of an invoice or invoices therefor and any amounts so paid by the Vendor shall be secured by and under this Agreement; *provided, however,* that the Company shall not be obligated to reimburse the Vendor for any expenses, taxes, assessments, license fees, charges, fines or penalties so paid unless the Vendor shall have been legally liable in respect thereof, or unless the Company shall have approved the payment thereof.

Article 5. *Title to the Equipment.* The Vendor shall, and hereby does, retain the full legal title to and property in the Equipment until the Company shall have made all of the payments hereunder, and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession

and use thereof by the Company as herein provided. Any and all additions to the Equipment and any and all replacements of parts thereof and additions thereto (except such as are not required pursuant to the applicable laws or rules referred to in Article 9 hereof and as may be removed without in any way affecting or impairing either the originally intended function or the use of any such unit of the Equipment) shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

When, and only when, the Vendor shall have been paid the full amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and all the Company's obligations herein contained shall have been performed by the Company, absolute right to the possession of, title to, and property in, the Equipment shall pass to and vest in the Company without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Company, will execute a bill or bills of sale of the Equipment transferring the Vendor's title thereto and property therein to the Company or upon its order, free of all liens and encumbrances created or retained hereby, and deliver such bill or bills of sale to the Company at its address specified in Article 23 hereof, and will execute in the same manner and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Company to the Equipment and will pay to the Company any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Company hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any certificate of payment in compliance with any law or

statute requiring the filing of the same except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Company.

ARTICLE 6. *Marking of Equipment.* The Company will cause each unit of the Equipment to be kept numbered with the indentifying number as set out in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such unit in letters not less than one inch in height, the name of the Vendor followed by the word 'Owner' or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Vendor to the Equipment and its rights under this Agreement. The Company will not place any such unit in operation, or exercise any control or dominion over any part thereof, until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Company will not change the numbers of any such units except with the consent of the Vendor and in accordance with a statement of new numbers to be substituted therefor, which consent and statement previously shall have been filed with the Vendor by the Company and filed, recorded or deposited by the Company in all public offices where this Agreement shall have been filed, recorded or deposited.

Except as above provided, the Company will not allow the name of any person, association or corporation to be placed on any unit of Equipment as a designation that might be interpreted as a claim of ownership; *provided, however,* that the Company may cause any unit of the Equipment to be lettered with the name, initials or insignia of the Company, or of a company controlling, or controlled by, or under common control with the Company (hereinafter called an Affiliate), or of a company operating such units under lease from the Company or may cause the Equipment to be lettered in some other appropriate manner for convenience

of the Company to purchase or provide a purchaser, within 10 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. To the extent not prohibited by any such requirements of law, the Vendor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale without accountability to the Company (except to the extent of surplus money received as hereinafter provided in this Article 18), and in payment of the purchase price therefor the Vendor shall be entitled, to the extent not prohibited as aforesaid, to have credited on account thereof all sums due to the Vendor from the Company hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Company shall pay the amount of such deficiency to the Vendor upon demand, and, if the Company shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Company. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Company.

The Company will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may, to the extent permitted by law, recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

ARTICLE 19. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale (which is not overriden by any provision of applicable federal law), shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Company to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any unit thereof, any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Vendor's rights hereunder, and any and all rights of redemption.

ARTICLE 20. *Extension not a Waiver.* No delay or omission in the exercise of any power or remedy herein provided, or otherwise available to the Vendor, shall impair or affect the Vendor's right thereafter to exercise the same. Any extension of time for payment hereunder, or other indulgence duly granted to the Company, shall not otherwise alter or affect the Vendor's rights or the Company's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder

shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 21. *Recording.* The Company will cause this Agreement and any supplements hereto and any assignment hereof (a counterpart of the first such assignment being attached hereto) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and otherwise as may be required by law or reasonably requested by the Vendor, from time to time, for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and the Company will promptly furnish to the Vendor certificates or other evidences of such filing and recording, and an opinion or opinions of counsel for the Company with respect thereto, satisfactory to the Vendor.

ARTICLE 22. *Payment of Expenses.* The Company will pay all reasonable costs and expenses, except the counsel fees of the Manufacturers, incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related thereto, including fees and expenses of counsel for, and including stamp and other taxes, if any, of, the first assignee of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent) and any party or parties acquiring interests in such first assignment, and in connection with the transfer by any party or parties of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 23. *Notice.* Any notice to or demand upon the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage

prepaid, to the Company at 345 Park Avenue, New York, New York 10022 or at such other address as may have been furnished in writing to the Vendor by the Company. Any notice to or demand upon the Manufacturers pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to General Electric at 2901 East Lake Road, Erie, Pennsylvania, to Gunderson, Inc. at 4700 Northwest Front Avenue, Portland, Oregon 97208, to International Car, at 835 Englewood Avenue, Buffalo, New York, to Motor Freight, at 1416 Dodge Street, Omaha, Nebraska, to Pacific Car at 1400 North Fourth Street, Renton, Washington 98005, and to The Darby Products of Steel Plate Corporation, at First and Walker, Kansas City, Kansas or at such other address as may have been furnished in writing to the Company by any such Manufacturer. Unless otherwise herein provided, any notice to or demand upon any assignee of the Vendor or of the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to such assignee at such address as may have been furnished in writing to the Company or the Vendor, as the case may be, by such assignee. An affidavit with respect to such mailing of any notice or demand by the person mailing the same shall be deemed to be conclusive evidence of the giving of such notice or the making of such demand.

Article 24. *Law Governing.* The terms of this Agreement and the 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 rights conferred by Section 20c of the Interstate Commerce Act and to the recording provisions of any other statute pursuant to which this Assignment may be recorded.

Article 25. *Article Headings.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Article 26. *Effect and Modification of Agreement.* No variation of this Agreement and no waiver of any of its pro-

visions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company. This Agreement, including Schedule A attached hereto, exclusively and completely states the rights of the Vendor and the Company with respect to the Equipment and amends and supersedes all other agreements, oral or written, with respect to the Equipment including the Lease Agreement, dated as of May 1, 1971 between Pacific Car and the Company but excepting the Purchase Agreement, dated as of July 1, 1971 between Motor Freight and the Company.

ARTICLE 27. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder each Manufacturer, and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor or assignors as regards any rights hereunder that are retained and excluded from any assignment; and the term "Manufacturer", whenever used in this Agreement, means both before and after any such assignment, the Manufacturer, and any successor or successors for the time being to its manufacturing properties and business.

The term "Company", whenever used in this Agreement, means Union Pacific Railroad Company and also any assignee of its rights under this Agreement pursuant to the first sentence of Article 15 hereof.

ARTICLE 28. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of May 1, 1971, 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.

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 their officers or representatives thereunto duly authorized and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

General Electric Company

By .....
General Manager, Locomotive Products Department

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Attest:

.....
ASSISTANT *Secretary*

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF OREGON
COUNTY OF MULTNOMAH ss.:

On this 6TH day of AUGUST, 1971, before me personally appeared CHARLES H. HAWKINS, to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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.

Edna P. Michael
Notary Public

My Commission Expires Oct. 15, 1972

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared M. A. Cox, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Vella)
Notary Public

ELIZABETH L. GALPINE (VELLA)
Notary Public, State of New York
No. 30-0451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971 Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971 Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

The Company will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may, to the extent permitted by law, recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

ARTICLE 19. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale (which is not overriden by any provision of applicable federal law), shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Company to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any unit thereof, any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Vendor's rights hereunder, and any and all rights of redemption.

ARTICLE 20. *Extension not a Waiver.* No delay or omission in the exercise of any power or remedy herein provided, or otherwise available to the Vendor, shall impair or affect the Vendor's right thereafter to exercise the same. Any extension of time for payment hereunder, or other indulgence duly granted to the Company, shall not otherwise alter or affect the Vendor's rights or the Company's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder

shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 21. *Recording.* The Company will cause this Agreement and any supplements hereto and any assignment hereof (a counterpart of the first such assignment being attached hereto) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and otherwise as may be required by law or reasonably requested by the Vendor, from time to time, for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and the Company will promptly furnish to the Vendor certificates or other evidences of such filing and recording, and an opinion or opinions of counsel for the Company with respect thereto, satisfactory to the Vendor.

ARTICLE 22. *Payment of Expenses.* The Company will pay all reasonable costs and expenses, except the counsel fees of the Manufacturers, incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related thereto, including fees and expenses of counsel for, and including stamp and other taxes, if any, of, the first assignee of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent) and any party or parties acquiring interests in such first assignment, and in connection with the transfer by any party or parties of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 23. *Notice.* Any notice to or demand upon the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage

prepaid, to the Company at 345 Park Avenue, New York, New York 10022 or at such other address as may have been furnished in writing to the Vendor by the Company. Any notice to or demand upon the Manufacturers pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to General Electric at 2901 East Lake Road, Erie, Pennsylvania, to Gunderson, Inc. at 4700 Northwest Front Avenue, Portland, Oregon 97208, to International Car, at 835 Englewood Avenue, Buffalo, New York, to Motor Freight, at 1416 Dodge Street, Omaha, Nebraska, to Pacific Car at 1400 North Fourth Street, Renton, Washington 98005, and to The Darby Products of Steel Plate Corporation, at First and Walker, Kansas City, Kansas or at such other address as may have been furnished in writing to the Company by any such Manufacturer. Unless otherwise herein provided, any notice to or demand upon any assignee of the Vendor or of the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to such assignee at such address as may have been furnished in writing to the Company or the Vendor, as the case may be, by such assignee. An affidavit with respect to such mailing of any notice or demand by the person mailing the same shall be deemed to be conclusive evidence of the giving of such notice or the making of such demand.

Article 24. *Law Governing.* The terms of this Agreement and the 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 rights conferred by Section 20c of the Interstate Commerce Act and to the recording provisions of any other statute pursuant to which this Assignment may be recorded.

Article 25. *Article Headings.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Article 26. *Effect and Modification of Agreement.* No variation of this Agreement and no waiver of any of its pro-

visions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company. This Agreement, including Schedule A attached hereto, exclusively and completely states the rights of the Vendor and the Company with respect to the Equipment and amends and supersedes all other agreements, oral or written, with respect to the Equipment including the Lease Agreement, dated as of May 1, 1971 between Pacific Car and the Company but excepting the Purchase Agreement, dated as of July 1, 1971 between Motor Freight and the Company.

ARTICLE 27. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder each Manufacturer, and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor or assignors as regards any rights hereunder that are retained and excluded from any assignment; and the term "Manufacturer", whenever used in this Agreement, means both before and after any such assignment, the Manufacturer, and any successor or successors for the time being to its manufacturing properties and business.

The term "Company", whenever used in this Agreement, means Union Pacific Railroad Company and also any assignee of its rights under this Agreement pursuant to the first sentence of Article 15 hereof.

ARTICLE 28. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of May 1, 1971, 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.

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 their officers or representatives thereunto duly authorized and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

General Electric Company

By .....
General Manager, Locomotive Products Department

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Attest:

.....
ASSISTANT *Secretary*

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF OREGON
COUNTY OF MULTNOMAH ss.:

On this 6TH day of AUGUST, 1971, before me personally appeared CHARLES H. HAWKINS, to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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.

Edna P. Michael
Notary Public

My Commission Expires Oct. 15, 1972

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

of the Company to purchase or provide a purchaser, within 10 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. To the extent not prohibited by any such requirements of law, the Vendor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale without accountability to the Company (except to the extent of surplus money received as hereinafter provided in this Article 18), and in payment of the purchase price therefor the Vendor shall be entitled, to the extent not prohibited as aforesaid, to have credited on account thereof all sums due to the Vendor from the Company hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Company shall pay the amount of such deficiency to the Vendor upon demand, and, if the Company shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Company. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Company.

The Company will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may, to the extent permitted by law, recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

ARTICLE 19. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale (which is not overriden by any provision of applicable federal law), shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Company to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any unit thereof, any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Vendor's rights hereunder, and any and all rights of redemption.

ARTICLE 20. *Extension not a Waiver.* No delay or omission in the exercise of any power or remedy herein provided, or otherwise available to the Vendor, shall impair or affect the Vendor's right thereafter to exercise the same. Any extension of time for payment hereunder, or other indulgence duly granted to the Company, shall not otherwise alter or affect the Vendor's rights or the Company's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder

shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 21. *Recording.* The Company will cause this Agreement and any supplements hereto and any assignment hereof (a counterpart of the first such assignment being attached hereto) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and otherwise as may be required by law or reasonably requested by the Vendor, from time to time, for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and the Company will promptly furnish to the Vendor certificates or other evidences of such filing and recording, and an opinion or opinions of counsel for the Company with respect thereto, satisfactory to the Vendor.

ARTICLE 22. *Payment of Expenses.* The Company will pay all reasonable costs and expenses, except the counsel fees of the Manufacturers, incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related thereto, including fees and expenses of counsel for, and including stamp and other taxes, if any, of, the first assignee of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent) and any party or parties acquiring interests in such first assignment, and in connection with the transfer by any party or parties of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 23. *Notice.* Any notice to or demand upon the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage

prepaid, to the Company at 345 Park Avenue, New York, New York 10022 or at such other address as may have been furnished in writing to the Vendor by the Company. Any notice to or demand upon the Manufacturers pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to General Electric at 2901 East Lake Road, Erie, Pennsylvania, to Gunderson, Inc. at 4700 Northwest Front Avenue, Portland, Oregon 97208, to International Car, at 835 Englewood Avenue, Buffalo, New York, to Motor Freight, at 1416 Dodge Street, Omaha, Nebraska, to Pacific Car at 1400 North Fourth Street, Renton, Washington 98005, and to The Darby Products of Steel Plate Corporation, at First and Walker, Kansas City, Kansas or at such other address as may have been furnished in writing to the Company by any such Manufacturer. Unless otherwise herein provided, any notice to or demand upon any assignee of the Vendor or of the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to such assignee at such address as may have been furnished in writing to the Company or the Vendor, as the case may be, by such assignee. An affidavit with respect to such mailing of any notice or demand by the person mailing the same shall be deemed to be conclusive evidence of the giving of such notice or the making of such demand.

Article 24. *Law Governing.* The terms of this Agreement and the 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 rights conferred by Section 20c of the Interstate Commerce Act and to the recording provisions of any other statute pursuant to which this Assignment may be recorded.

Article 25. *Article Headings.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Article 26. *Effect and Modification of Agreement.* No variation of this Agreement and no waiver of any of its pro-

visions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company. This Agreement, including Schedule A attached hereto, exclusively and completely states the rights of the Vendor and the Company with respect to the Equipment and amends and supersedes all other agreements, oral or written, with respect to the Equipment including the Lease Agreement, dated as of May 1, 1971 between Pacific Car and the Company but excepting the Purchase Agreement, dated as of July 1, 1971 between Motor Freight and the Company.

ARTICLE 27. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder each Manufacturer, and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor or assignors as regards any rights hereunder that are retained and excluded from any assignment; and the term "Manufacturer", whenever used in this Agreement, means both before and after any such assignment, the Manufacturer, and any successor or successors for the time being to its manufacturing properties and business.

The term "Company", whenever used in this Agreement, means Union Pacific Railroad Company and also any assignee of its rights under this Agreement pursuant to the first sentence of Article 15 hereof.

ARTICLE 28. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of May 1, 1971, 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.

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 their officers or representatives thereunto duly authorized and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

General Electric Company

By .....
General Manager, Locomotive Products Department

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Attest:

.....
ASSISTANT *Secretary*

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF OREGON
COUNTY OF MULTNOMAH ss.:

On this 6TH day of AUGUST, 1971, before me personally appeared CHARLES H. HAWKINS, to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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.

Edna P. Michael
Notary Public

My Commission Expires Oct. 15, 1972

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared M. A. Cox, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Vella)
Notary Public

ELIZABETH L. GALPINE (VELLA)
Notary Public, State of New York
No. 30-0451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971 Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971 Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

SCHEDULE B

Manufacturer	*Warranty*
General Electric	To repair at the Manufacturer's plant or to deliver to the Company at its plant a new part to replace any part that may fail under normal service within two years after shipment from the Manufacturer's plant or before the unit of Equipment in which such part is located has been 250,000 miles in scheduled service, whichever event shall first occur, because of faulty work done by the Manufacturer or defective material in equipment manufactured by the Manufacturer.
Gunderson Motor Freight	To repair or to deliver to the Company at its plant a new part to replace the defective part or to pay the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchanged Traffic, any part of any unit that may fail under normal service within two years after shipment from the Manufacturer's plant because of inadequate design, faulty work done, or defective material made by the Manufacturer.
International Car Darby	To repair at the Manufacturer's plant or to deliver to the Company at the Manufacturer's plant, a new part to replace any part of any unit that may fail under normal service within one year after shipment from the Manufacturer's plant because of faulty work done or defective material made by the Manufacturer.
Pacific Car	To repair the defect at the Manufacturer's plant or to replace the defective part or to pay the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchanged Traffic, any part of any unit that may fail under normal service within two years after delivery of such unit to the Company.

AGREEMENT AND ASSIGNMENT dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally the Manufacturer) and The Chase Manhattan Bank (National Association), a national banking association with its business address at 1 Chase Manhattan Plaza, New York, New York 10015, acting as Agent under an Agreement dated as of May 1, 1971 (hereinafter called the Finance Agreement) and said banking corporation, so acting being hereinafter called the Assignee.

Whereas, the Manufacturers and Union Pacific Railroad Company, a corporation duly organized and existing under the laws of the State of Utah, with an office in New York, New York (hereinafter called the Company), have entered into a Conditional Sale Agreement, dated as of May 1, 1971 (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Manufacturers and the purchase by the Company of the railroad equipment described in Schedule A to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

Now, Therefore, This Agreement Witnesseth: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Manufacturers, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

Section 1. Each Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(*a*) All of its right, title and interest in and to the Equipment and each unit thereof when and as severally

delivered and accepted under the Conditional Sale Agreement, and upon payment by the Assignee to the Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(*b*) All of its right, title and interest in and to the Conditional Sale Agreement in respect of the Equipment (except the rights to construct or cause to be constructed and to deliver the Equipment and the rights to receive the payments specified in subparagraphs (*a*) and (*b*) of the third paragraph of Article 3 thereof and in the final paragraph of Article 15 thereof) and the right to reimbursement for taxes as provided in Article 4 of the Conditional Sale Agreement, and in and to any and all amounts which may be or become due or owing by the Company to the Manufacturer under the Conditional Sale Agreement on account of its indebtedness in respect of the aggregate Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Company under the Conditional Sale Agreement, other than those hereinabove excluded; and

(*c*) All of the Manufacturer's rights (except as herein limited), powers, privileges and remedies under the Conditional Sale Agreement

(without any recourse, however, against the Manufacturer for or on account of the failure of the Company to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); *provided, however,* that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Manufacturer to construct or cause to be constructed and to deliver the Equipment in accordance with the Conditional Sale Agreement or in respect of its warranties and indemnities contained in Articles 13 and 14 of the Conditional Sale Agreement or relieve the Company from its obligations to the Manufacturer under Articles 1, 2, 3, 4, 13, 14 and 15 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent

assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Company in respect of the Equipment shall be and remain enforceable by the Company, its successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer, 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 compliance by the Company with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

Each Manufacturer agrees that any amount payable to it by the Company, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any of the units of Equipment.

SECTION 2. Each Manufacturer covenants and agrees that it will cause the Equipment to be sold by such Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Company in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by it. Each Manufacturer further covenants and agrees that it will warrant to the Assignee and the Company that at the time of delivery and acceptance of each unit of the Equipment sold by it, it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and as to units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, be-

tween Pacific Car and the Company and the Lease as of the same date between the Company and Pacific Fruit Express Company; and the Manufacturer further covenants and agrees that it will defend such title against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Manufacturer under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Company thereunder. The Manufacturer will not deliver any of the Equipment to the Company until the filings and recordations referred to in Article 21 of the Conditional Sale Agreement have been effected, as to which fact Manufacturer and its counsel may rely upon advice of counsel for the Company.

SECTION 3. Each Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any amount which may be due or owing by the Company on account of its indebtedness in respect of the aggregate Purchase Price of the Equipment and interest thereon, and any other sums becoming due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, it will save, indemnify and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever of the Company arising out of a breach by the Manufacturer of any obligation in respect of the Equipment, or the manufacture, construction, delivery or warranty thereof, or under Articles 13 and 14 of the Conditional Sale Agreement, or by reason of any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Company by the Manufacturer. Any and all such obligations shall be and remain enforceable by the Company against and only against the Manufacturer and shall not be enforceable against the Assignee or any party or parties in whom title to the Equipment, or any unit thereof, or any of the rights of the Manufacturer under the Conditional Sale Agreement, shall vest by reason

poration, and has the power and authority to own its properties and to carry on its business as now conducted;

(*f*) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the rights, title and interests and powers, privileges and remedies of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Company in accordance with the provisions of the Conditional Sale Agreement, were free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and, as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company, and the Lease of the same date between the Company and Pacific Fruit Express Company;

(*g*) Unless payment of the amount payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, the receipt from the Manufacturer for such payment.

In giving the opinions specified in subparagraphs (*d*) (*e*) and (*f*) of the first paragraph of this Section 6, counsel may qualify any opinion, to the effect that any agreement is enforceable in accordance with its terms, by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion. In giving the opinion specified in said subparagraph (*d*), counsel may rely, as to the authorization, execution and delivery by each Manufacturer of the documents executed by such Manufacturer, and to title to the units of Equipment of such Manufacturer at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for such Manufacturer, and as to any matters governed by the law of any jurisdiction other than New York and the United States, on the opinion of counsel for such Manufacturer or the opinion of counsel for the Company as to such matters.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Company shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

poration, and has the power and authority to own its properties and to carry on its business as now conducted;

(*f*) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the rights, title and interests and powers, privileges and remedies of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Company in accordance with the provisions of the Conditional Sale Agreement, were free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and, as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company, and the Lease of the same date between the Company and Pacific Fruit Express Company;

(*g*) Unless payment of the amount payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, the receipt from the Manufacturer for such payment.

In giving the opinions specified in subparagraphs (*d*) (*e*) and (*f*) of the first paragraph of this Section 6, counsel may qualify any opinion, to the effect that any agreement is enforceable in accordance with its terms, by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion. In giving the opinion specified in said subparagraph (*d*), counsel may rely, as to the authorization, execution and delivery by each Manufacturer of the documents executed by such Manufacturer, and to title to the units of Equipment of such Manufacturer at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for such Manufacturer, and as to any matters governed by the law of any jurisdiction other than New York and the United States, on the opinion of counsel for such Manufacturer or the opinion of counsel for the Company as to such matters.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Company shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

STATE OF OREGON
COUNTY OF MULTNOMAH SS.:

On this 6TH day of AUGUST, 1971, before me personally appeared CHARLES H. HAUCKING to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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.

Edward Michael
Notary Public
My Commission Expires Oct. 15, 1972

STATE OF NEW YORK
COUNTY OF ERIE SS.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

STATE OF OREGON
COUNTY OF MULTNOMAH SS.:

On this 6TH day of AUGUST, 1971, before me personally appeared CHARLES H. HAUCKING to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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.

Edward Michael
Notary Public
My Commission Expires Oct. 15, 1972

STATE OF NEW YORK
COUNTY OF ERIE SS.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 12th day of August 1971, before me personally appeared J. L. HOWARD, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK, (N.A.), 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.

Loretta Jedlicka
Notary Public

LORETTA JEDLICKA
Notary Public, State of New York
No. 31-4500161
Qualified in New York County
Commission Expires March 30, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is hereby acknowledged.

UNION PACIFIC RAILROAD COMPANY

By .....

Vice President

Dated as of May 1, 1971.

CONDITIONAL SALE AGREEMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

UNION PACIFIC RAILROAD COMPANY

AGREEMENT AND ASSIGNMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

THE CHASE MANHATTAN BANK, (N.A.), as Agent

CONDITIONAL SALE AGREEMENT, dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally, the Manufacturer, or collectively or severally called the Vendor as the context may require, all as more particularly set forth in Article 27 hereof) and Union Pacific Railroad Company, a Utah corporation (hereinafter called the Company).

Whereas, the Manufacturers have agreed to construct or cause to be constructed and to sell and deliver to the Company and the Company has agreed to purchase, the new and rebuilt railroad equipment described in Schedule A attached hereto (hereinafter called the Equipment);

Now, Therefore, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

Article 1. *Construction and Sale.* Pursuant to this Agreement, each Manufacturer shall construct or cause to be constructed and shall sell and deliver to the Company and the Company shall, subject to the provisions of this Agreement, purchase from such Manufacturer and accept delivery of and pay for (as hereinafter provided) the units of the Equipment which are described in Schedule A hereto to be constructed by or for, and sold and delivered, by the Manufacturer, each unit of which will be constructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof

as may have been agreed upon in writing by the Manufacturer and the Company (which specifications and modifications, if any, are hereinafter called the Specifications). Each Manufacturer agrees that the design, quality, and component parts of the Equipment will conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new and rebuilt equipment and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to new and rebuilt railroad equipment of the character of such units.

ARTICLE 2. *Delivery.* Each Manufacturer will deliver its units of the Equipment to the Company, freight charges prepaid, at the point specified in, and in accordance with, the delivery schedule set forth in Schedule A hereto, or at such other point and time as the Manufacturer and the Company may mutually agree upon.

The Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond its reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 2 and except as hereinbelow provided, any Equipment not delivered and accepted under this Agreement on or before November 30, 1971 shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement unless the Company, with the written consent of the Manufacturer of such units and its assignee or successor assignee, in the event of an assignment or successive assignments of this Agreement as contemplated in Article 15 hereof, shall elect to include such units of Equipment within this Agreement and shall, prior to November 30, 1971, actually deliver to the Manufacturer in writing, notice

of such election and furnish the Manufacturer with a copy of such written consent. In the event of any such exclusion, the Company and the Manufacturer shall execute an agreement or agreements supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom in such form as may be necessary for the proper filing and recording thereof in all offices where this Agreement shall at the time be filed or recorded. If the Manufacturer's failure to deliver, on or before November 30, 1971, all the Equipment, resulted from one or more of the causes referred to in the preceding paragraph, the Company shall nevertheless be obligated to accept such excluded equipment, and the Company and the Manufacturer shall execute a separate agreement or agreements providing for the purchase of such excluded Equipment by the Company, on the terms herein specified, payment to be made either in cash on delivery of such Equipment or, in the case the Company shall arrange therefor, by means of a conditional sale, equipment trust, or such other appropriate method of financing the purchase, as the Company shall determine and as shall be reasonably acceptable to the Manufacturer.

From time to time upon the completion of the construction of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector or other authorized representative of the Company for inspection at the place designated for delivery of such unit or units, and if such unit or units conform to the Specifications, requirements and standards applicable thereto, and if delivery is accepted, such inspector or authorized representative of the Company shall execute and deliver to the Manufacturer, in such number of counterparts as may reasonably be requested, a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been delivered to the Company hereunder in accordance with this Agreement, have been inspected and accepted by him on behalf of the Company, conform to the specifications applicable thereto, to all applicable Interstate Commerce Commission requirements and Specifications and to all standards recommended by the Association of American Railroads and are marked in accordance with Article 6

hereof. Each Certificate of Acceptance shall be conclusive evidence that the units of Equipment covered thereby have been delivered to the Company and conform to the Specifications and are acceptable to the Company in all details; *provided, however,* that the Manufacturer shall not be relieved of its warranties contained in Articles 13 and 14 hereof. The Company shall designate an inspector or representative who shall be reasonably available for presentation of completed units and who shall upon presentation promptly inspect and accept such units as conform with the Specifications. Delivery of any unit of Equipment under the Lease Agreement, dated as of May 1, 1971, between Pacific Car and the Company shall constitute delivery of such unit under the provisions of this Article 2 and the Certificate of Acceptance delivered pursuant to Section 1 of said Lease shall be conclusive evidence that the units described therein have been delivered to and accepted by the Company hereunder on the date of such certificate, provided no such certificate shall be dated prior to June 1, 1971.

The Manufacturer shall bear the risk of loss of each unit of Equipment or damage thereto until delivery to and acceptance by the Company. Upon delivery and acceptance by the Company of a Certificate of Acceptance with respect to any unit of Equipment, the Company shall bear the risk of loss of or damage to such unit.

Article 3. *Purchase Price and Payment.* The base price or prices per unit of the Equipment are set forth in Schedule A hereto. The base price or prices include estimated freight charges from the respective Manufacturer's plant to the point of delivery and taxes, if any, and shall be subject to increase or decrease, to the extent contemplated in the purchase order referred to in Schedule A hereof, or, as may be otherwise mutually agreed upon by the Manufacturer and the Company. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased.

For the purpose of making settlement, all the Equipment shall be divided into groups (each such group being hereinafter called a Group), each Group to consist of all units of

the Equipment, delivered to and accepted by the Company in the calendar month preceding (or in respect of the final Group, preceding or on, as the case may be) the Closing Date (fixed as hereinafter provided) in respect of such Group.

Subject to the provisions of this Article 3, the Company hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment to be constructed and sold by such Vendor, as follows:

(*a*) On the Closing Date, with respect to each Group, an amount equal to (i) 20% of the aggregate Purchase Price of all units of Equipment in such Group, as stated in the invoice or invoices therefor (hereinafter called the Group Invoiced Purchase Price), plus (ii) the amount if any, by which 80% of such Group Invoiced Purchase Price, when added to 80% of the sum of the Group Invoiced Purchase Prices of all other units of the Equipment for which settlement has theretofore been, and is then being, made exceeds the sum of (x) $21,550,000 plus (y) any amount previously paid under clause (ii) of this subparagraph (a);

(*b*) On the next succeeding Closing Date following receipt from each Manufacturer of its final certificate (hereinafter called the Final Certificate) of the aggregate Purchase Price for all of its units in all Groups settled for as provided herein, the amount, if any, by which the final aggregate Purchase Price of all such units, as stated therein (hereinafter called the Final Invoiced Purchase Price), shall exceed the sum of the Group Invoiced Purchase Prices of all such units; and

(*c*) In five substantially equal consecutive annual instalments, as hereinafter provided, an amount equal to 80% of the sum of the Group Invoiced Purchase Prices of all units of the Equipment to be sold by such Vendor (hereinafter called the Conditional Sale Indebtedness) less the amounts paid or payable in respect thereof pursuant to clause (ii) of subparagraph (a) of this paragraph, *provided, however,* that, in case

the amount payable pursuant to this subparagraph (c) shall not, when divided by 5, result in an amount ending in an integral cent, the final instalment shall be appropriately adjusted.

If this Agreement shall be assigned by any Manufacturer, the obligations of the Company under subparagraphs (a) and (b) of the preceding paragraph of this Article 3 shall be unsecured obligations, and the Manufacturer shall not have any lien on, or claim against, any unit of the Equipment or any part thereof in respect of such obligations.

The first instalment of the Conditional Sale Indebtedness shall be payable on July 15, 1973 and subsequent instalments shall be payable annually thereafter on July 15 of each year, to and including July 15, 1977. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the respective Closing Dates, regardless of any postponement thereof pursuant to the provisions of any assignment of this Agreement, at the rate of 7.25% per annum and shall be payable, to the extent accrued, semi-annually on January 15 and July 15 in each year, commencing January 15, 1972.

The Final Certificate and final invoice shall be delivered by each Manufacturer on or before December 15, 1971, and, if not so delivered, the Final Invoiced Purchase Price of the units of the Equipment shall be, for all purposes of this Agreement, the sum of the Group Invoiced Purchase Prices of such units. The Manufacturer agrees that the Group Invoiced Purchase Prices shall be so fixed that they will not in the aggregate exceed the Final Invoiced Purchase Price.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date not prior to August 15, 1971, and not later than December 31, 1971, and not more than 15 business days following presentation to the Company of the Certificates of Acceptance and the invoice or invoices for such Group, as shall be fixed by the Company by written notice delivered to the Vendor at least 7 business days prior to the Closing Date designated therein. The term

"business days" as used herein means calendar days, excluding Saturdays, Sundays, holidays and days on which banking institutions are authorized by law to close.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Company will pay, to the extent legally enforceable, interest at 8% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Payments to Manufacturers shall be made in Federal Funds. In the event of an assignment by a Manufacturer of its right to receive any payment hereunder as hereinafter contemplated, such payment to its assignee shall be made in New York Clearing House funds. In any case where the date of a payment provided for in this Agreement shall be, in the City of New York, a Saturday, Sunday, a holiday or a day on which banking institutions are authorized by law to close, then such payment need not be made on such date but may be made on the next succeeding business day and such extension of time shall, in any case, be included in computing interest, if any, in connection with such payment.

Except as provided in Article 7 hereof, the Company shall not have the privilege of prepaying any instalment of its indebtedness hereunder, prior to the date it becomes due.

ARTICLE 4. *Taxes.* All payments to be made by the Company hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor in respect of the amount of any local, state or federal taxes (other than income, gross receipts [except gross income or gross receipts taxes in the nature of sales taxes] excess profits and similar taxes) or license fees, fines or penalties hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment,

held by the Vendor pursuant to this Article 7 (including for this purpose Authorized Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 18 hereof.

ARTICLE 8. *Maintenance and Repair.* The Company will at all times maintain the Equipment in good order and good running repair at its own expense.

ARTICLE 9. *Compliance with Laws and Rules.* During the term of this Agreement the Company will comply in all respects with all laws of the jurisdictions in which operations of the Company involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Company will conform therewith, at its expense, and will maintain the same in proper condition for operation under such laws and rules; *provided, however,* that the Company may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder.

ARTICLE 10. *Reports and Inspections.* On or before April 30 in each year, commencing with the year 1972, the Company shall furnish to the Vendor an accurate statement signed by an officer of the Company as of the preceding December 31, (a) showing the amount, description and numbers of the Equipment then covered hereby, the amount, description and numbers of all units of the Equipment that may have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement), and such other infor-

mation regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 6 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Company's records with respect thereto at such times as it may reasonably request, but no failure by the Vendor or its agents to make any such inspection shall be deemed a waiver of any of the Vendor's rights under this Agreement.

Article 11. *Possession and Use.* The Company, so long as an Event of Default (as hereinafter defined) shall not have occurred and be continuing under this Agreement, shall be entitled to possession and use of the Equipment upon the lines of railroad owned or operated by it either alone or jointly with others and whether under lease or otherwise, and upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with the Company, or over which it has trackage rights or upon connecting and other railroads in the usual interchange of traffic, from and after delivery of the Equipment by the Manufacturers to the Company, but only upon and subject to all the terms and conditions of this Agreement. The Company shall not, without the prior written consent of the Vendor, assign or transfer its rights in the Equipment hereunder or transfer or sublet the Equipment or any unit thereof except to an affiliate (and then only subject to this Agreement and without releasing the Company from its obligations hereunder).

Article 12. *Prohibition Against Liens.* The Company will pay or satisfy and discharge any and all sums claimed by any party from, through or under the Company or its successors or assigns which, if unpaid, might become a lien, charge or security interest upon the Equipment, or any unit thereof, equal or superior to the title of the Vendor thereto, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested

in good faith and by appropriate legal proceedings in any reasonable manner and the non-payment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent (such liens being herein called Permitted Liens).

ARTICLE 13. *Company's Indemnities; Manufacturers' Warranties.* The Company agrees to indemnify and save harmless the Vendor and each Manufacturer from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of title to the Equipment, or out of the use and operation thereof by the Company during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the transfer of title to the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

After acceptance by the Company of any unit or units of Equipment as provided for under Article 2 hereof, the Company will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit or units.

Each Manufacturer warrants that each unit of Equipment to be sold and delivered by it pursuant to this Agreement will be built in accordance with the requirements, Specifications, and standards referred to in Article 1 hereof, and, except in cases of articles and materials specified by the Company and not manufactured by such Manufacturer, warrants each such unit to be free from all defects in material and workmanship under normal use and service, the liability of the Manufacturer hereunder being limited, as the Company may elect, to those remedies set forth in respect of each Manufacturer on Schedule B hereto; *provided, however,* that the Manufacturer be notified of the fault or defect when it is first discovered and given reasonable opportunity to verify any claimed defect in workmanship or material.

The foregoing warranty of each Manufacturer shall begin, with respect to each unit of Equipment, at the time of delivery of such unit to the Company and shall continue as provided in respect of each Manufacturer on Schedule B hereto. This warranty is expressly in lieu of all other warranties of each Manufacturer expressed or implied and each Manufacturer neither assumes nor authorizes any person to assume for it any other warranty liability in connection with the construction and delivery of the Equipment, including the service performance of materials and specialties designated by the Company over which the Manufacturer has no control, except for the patent indemnification contained in Article 14 of this Agreement. No Manufacturer shall have any liability for lost profits or indirect, incidental, consequential or commercial losses. *Each Manufacturer makes no warranty of merchantability or fitness for a particular purpose.*

Each Manufacturer agrees that, with respect to its purchase of any articles or materials specified by the Company, it will endeavor to secure from the manufacturer of such articles or materials a warranty to the Company substantially in the form of the warranty from the Manufacturer to the Company contained in this Article. If the Manufacturer is unable to secure such a warranty, it shall promptly so inform the Company, and the Company shall thereafter either specify another article or material, in lieu

of the article or material originally specified, or accept the original article or material with such warranty as may be secured.

Each Manufacturer agrees with the Company that the acceptance of any unit by the Company under Article 2 hereof shall not be deemed a waiver by the Company of any of its rights under this paragraph. This warranty shall continue in full force and effect for the period stated notwithstanding the full payment of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the transfer of title to the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

Article 14. *Patent Indemnities.* Except in cases of designs, systems, processes or formulae utilized by a Manufacturer in or about the construction of units of Equipment as a result of specification by the Company, and articles and materials specified by the Company and not manufactured by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold the Company harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Company, or the user of any of the Equipment, because of the use in or about construction of the Equipment or any unit thereof, of any design, system, process, or formula, article or material infringing or claimed to infringe on any patent or other right. The Company likewise will indemnify, protect and hold the Vendor and the Manufacturer harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor and/or the Manufacturer because of the use in or about the construction of any unit of Equipment, of any such design, system, process, or formula specified by the Company and not developed or purported to be developed by the Manufacturer or article or material specified by the Company and not manufactured by the Manufacturer, which infringes,

poration, and has the power and authority to own its properties and to carry on its business as now conducted;

(*f*) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the rights, title and interests and powers, privileges and remedies of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Company in accordance with the provisions of the Conditional Sale Agreement, were free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and, as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company, and the Lease of the same date between the Company and Pacific Fruit Express Company;

(*g*) Unless payment of the amount payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, the receipt from the Manufacturer for such payment.

In giving the opinions specified in subparagraphs (*d*) (*e*) and (*f*) of the first paragraph of this Section 6, counsel may qualify any opinion, to the effect that any agreement is enforceable in accordance with its terms, by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion. In giving the opinion specified in said subparagraph (*d*), counsel may rely, as to the authorization, execution and delivery by each Manufacturer of the documents executed by such Manufacturer, and to title to the units of Equipment of such Manufacturer at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for such Manufacturer, and as to any matters governed by the law of any jurisdiction other than New York and the United States, on the opinion of counsel for such Manufacturer or the opinion of counsel for the Company as to such matters.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Company shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account

held by the Vendor pursuant to this Article 7 (including for this purpose Authorized Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 18 hereof.

ARTICLE 8. *Maintenance and Repair.* The Company will at all times maintain the Equipment in good order and good running repair at its own expense.

ARTICLE 9. *Compliance with Laws and Rules.* During the term of this Agreement the Company will comply in all respects with all laws of the jurisdictions in which operations of the Company involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Company will conform therewith, at its expense, and will maintain the same in proper condition for operation under such laws and rules; *provided, however,* that the Company may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder.

ARTICLE 10. *Reports and Inspections.* On or before April 30 in each year, commencing with the year 1972, the Company shall furnish to the Vendor an accurate statement signed by an officer of the Company as of the preceding December 31, (a) showing the amount, description and numbers of the Equipment then covered hereby, the amount, description and numbers of all units of the Equipment that may have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement), and such other infor-

mation regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 6 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Company's records with respect thereto at such times as it may reasonably request, but no failure by the Vendor or its agents to make any such inspection shall be deemed a waiver of any of the Vendor's rights under this Agreement.

Article 11. *Possession and Use.* The Company, so long as an Event of Default (as hereinafter defined) shall not have occurred and be continuing under this Agreement, shall be entitled to possession and use of the Equipment upon the lines of railroad owned or operated by it either alone or jointly with others and whether under lease or otherwise, and upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with the Company, or over which it has trackage rights or upon connecting and other railroads in the usual interchange of traffic, from and after delivery of the Equipment by the Manufacturers to the Company, but only upon and subject to all the terms and conditions of this Agreement. The Company shall not, without the prior written consent of the Vendor, assign or transfer its rights in the Equipment hereunder or transfer or sublet the Equipment or any unit thereof except to an affiliate (and then only subject to this Agreement and without releasing the Company from its obligations hereunder).

Article 12. *Prohibition Against Liens.* The Company will pay or satisfy and discharge any and all sums claimed by any party from, through or under the Company or its successors or assigns which, if unpaid, might become a lien, charge or security interest upon the Equipment, or any unit thereof, equal or superior to the title of the Vendor thereto, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested

in good faith and by appropriate legal proceedings in any reasonable manner and the non-payment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent (such liens being herein called Permitted Liens).

ARTICLE 13. *Company's Indemnities; Manufacturers' Warranties.* The Company agrees to indemnify and save harmless the Vendor and each Manufacturer from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of title to the Equipment, or out of the use and operation thereof by the Company during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the transfer of title to the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

After acceptance by the Company of any unit or units of Equipment as provided for under Article 2 hereof, the Company will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit or units.

Each Manufacturer warrants that each unit of Equipment to be sold and delivered by it pursuant to this Agreement will be built in accordance with the requirements, Specifications, and standards referred to in Article 1 hereof, and, except in cases of articles and materials specified by the Company and not manufactured by such Manufacturer, warrants each such unit to be free from all defects in material and workmanship under normal use and service, the liability of the Manufacturer hereunder being limited, as the Company may elect, to those remedies set forth in respect of each Manufacturer on Schedule B hereto; *provided, however,* that the Manufacturer be notified of the fault or defect when it is first discovered and given reasonable opportunity to verify any claimed defect in workmanship or material.

The foregoing warranty of each Manufacturer shall begin, with respect to each unit of Equipment, at the time of delivery of such unit to the Company and shall continue as provided in respect of each Manufacturer on Schedule B hereto. This warranty is expressly in lieu of all other warranties of each Manufacturer expressed or implied and each Manufacturer neither assumes nor authorizes any person to assume for it any other warranty liability in connection with the construction and delivery of the Equipment, including the service performance of materials and specialties designated by the Company over which the Manufacturer has no control, except for the patent indemnification contained in Article 14 of this Agreement. No Manufacturer shall have any liability for lost profits or indirect, incidental, consequential or commercial losses. *Each Manufacturer makes no warranty of merchantability or fitness for a particular purpose.*

Each Manufacturer agrees that, with respect to its purchase of any articles or materials specified by the Company, it will endeavor to secure from the manufacturer of such articles or materials a warranty to the Company substantially in the form of the warranty from the Manufacturer to the Company contained in this Article. If the Manufacturer is unable to secure such a warranty, it shall promptly so inform the Company, and the Company shall thereafter either specify another article or material, in lieu

of the article or material originally specified, or accept the original article or material with such warranty as may be secured.

Each Manufacturer agrees with the Company that the acceptance of any unit by the Company under Article 2 hereof shall not be deemed a waiver by the Company of any of its rights under this paragraph. This warranty shall continue in full force and effect for the period stated notwithstanding the full payment of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the transfer of title to the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

Article 14. *Patent Indemnities.* Except in cases of designs, systems, processes or formulae utilized by a Manufacturer in or about the construction of units of Equipment as a result of specification by the Company, and articles and materials specified by the Company and not manufactured by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold the Company harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Company, or the user of any of the Equipment, because of the use in or about construction of the Equipment or any unit thereof, of any design, system, process, or formula, article or material infringing or claimed to infringe on any patent or other right. The Company likewise will indemnify, protect and hold the Vendor and the Manufacturer harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor and/or the Manufacturer because of the use in or about the construction of any unit of Equipment, of any such design, system, process, or formula specified by the Company and not developed or purported to be developed by the Manufacturer or article or material specified by the Company and not manufactured by the Manufacturer, which infringes,

poration, and has the power and authority to own its properties and to carry on its business as now conducted;

(*f*) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the rights, title and interests and powers, privileges and remedies of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Company in accordance with the provisions of the Conditional Sale Agreement, were free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and, as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company, and the Lease of the same date between the Company and Pacific Fruit Express Company;

(*g*) Unless payment of the amount payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, the receipt from the Manufacturer for such payment.

In giving the opinions specified in subparagraphs (*d*) (*e*) and (*f*) of the first paragraph of this Section 6, counsel may qualify any opinion, to the effect that any agreement is enforceable in accordance with its terms, by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion. In giving the opinion specified in said subparagraph (*d*), counsel may rely, as to the authorization, execution and delivery by each Manufacturer of the documents executed by such Manufacturer, and to title to the units of Equipment of such Manufacturer at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for such Manufacturer, and as to any matters governed by the law of any jurisdiction other than New York and the United States, on the opinion of counsel for such Manufacturer or the opinion of counsel for the Company as to such matters.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Company shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account

of the Purchase Price of the Equipment to be settled for on such Closing Date, the Company shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under subparagraph (c) of the third paragraph of Article 3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Company. By any such payment, however, the Company shall not acquire any rights under this Assignment.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement shall constitute an event of default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

Section 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Company thereunder. 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. In compliance with Article 23 of the Conditional Sale Agreement the address of the Assignee for purposes of notices and payments is The Chase Manhattan Bank, (N.A.), Corporate Trust Administration, 1 Chase Manhattan Plaza, New York, New York 10015 or such other address as the Assignee shall have furnished in writing to the Company.

Section 8. Each Manufacturer hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed

and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Company, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and the Company in accordance with its terms and that it is now in force without amendment thereto; and

(*b*) represents and warrants to the Assignee, its successors and assigns, that as of its execution and delivery of this Assignment all of its right, title and interest in and to the Conditional Sale Agreement was free of all claims, liens, security interests and other encumbrances whatsoever; and

(*c*) covenants and 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.

SECTION 9. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Company. Although this Assignment is dated for convenience as of May 1, 1971, 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 terms of this Assignment and the 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 rights conferred by Section 20c of the

Interstate Commerce Act, and to the recording provisions of any other statutes pursuant to which this Agreement may be recorded.

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 officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

General Electric Company

By .....
Vice President

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By Karl F. Long
Divisional President

Attest:

Norma Graham
Asst. Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this 5th day of August 1971, before me personally appeared KARL F. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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.

Alfred J. Neumeister
.....
Notary Public
ALFRED J. NEUMEISTER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1972

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 12th day of August 1971, before me personally appeared W. H. HOWARD, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK, (N.A.), 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.

Loretta Jedlicka
Notary Public

LORETTA JEDLICKA
Notary Public, State of New York
No. 31-4500161
Qualified in New York County
Commission Expires March 30, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is hereby acknowledged.

UNION PACIFIC RAILROAD COMPANY

By .....

Vice President

Dated as of May 1, 1971.

The Company will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may, to the extent permitted by law, recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

ARTICLE 19. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale (which is not overriden by any provision of applicable federal law), shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Company to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any unit thereof, any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Vendor's rights hereunder, and any and all rights of redemption.

ARTICLE 20. *Extension not a Waiver.* No delay or omission in the exercise of any power or remedy herein provided, or otherwise available to the Vendor, shall impair or affect the Vendor's right thereafter to exercise the same. Any extension of time for payment hereunder, or other indulgence duly granted to the Company, shall not otherwise alter or affect the Vendor's rights or the Company's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder

shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 21. *Recording.* The Company will cause this Agreement and any supplements hereto and any assignment hereof (a counterpart of the first such assignment being attached hereto) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and otherwise as may be required by law or reasonably requested by the Vendor, from time to time, for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and the Company will promptly furnish to the Vendor certificates or other evidences of such filing and recording, and an opinion or opinions of counsel for the Company with respect thereto, satisfactory to the Vendor.

ARTICLE 22. *Payment of Expenses.* The Company will pay all reasonable costs and expenses, except the counsel fees of the Manufacturers, incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related thereto, including fees and expenses of counsel for, and including stamp and other taxes, if any, of, the first assignee of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent) and any party or parties acquiring interests in such first assignment, and in connection with the transfer by any party or parties of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 23. *Notice.* Any notice to or demand upon the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage

prepaid, to the Company at 345 Park Avenue, New York, New York 10022 or at such other address as may have been furnished in writing to the Vendor by the Company. Any notice to or demand upon the Manufacturers pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to General Electric at 2901 East Lake Road, Erie, Pennsylvania, to Gunderson, Inc. at 4700 Northwest Front Avenue, Portland, Oregon 97208, to International Car, at 835 Englewood Avenue, Buffalo, New York, to Motor Freight, at 1416 Dodge Street, Omaha, Nebraska, to Pacific Car at 1400 North Fourth Street, Renton, Washington 98005, and to The Darby Products of Steel Plate Corporation, at First and Walker, Kansas City, Kansas or at such other address as may have been furnished in writing to the Company by any such Manufacturer. Unless otherwise herein provided, any notice to or demand upon any assignee of the Vendor or of the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to such assignee at such address as may have been furnished in writing to the Company or the Vendor, as the case may be, by such assignee. An affidavit with respect to such mailing of any notice or demand by the person mailing the same shall be deemed to be conclusive evidence of the giving of such notice or the making of such demand.

Article 24. *Law Governing.* The terms of this Agreement and the 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 rights conferred by Section 20c of the Interstate Commerce Act and to the recording provisions of any other statute pursuant to which this Assignment may be recorded.

Article 25. *Article Headings.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Article 26. *Effect and Modification of Agreement.* No variation of this Agreement and no waiver of any of its pro-

of the Purchase Price of the Equipment to be settled for on such Closing Date, the Company shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under subparagraph (c) of the third paragraph of Article 3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Company. By any such payment, however, the Company shall not acquire any rights under this Assignment.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement shall constitute an event of default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

Section 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Company thereunder. 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. In compliance with Article 23 of the Conditional Sale Agreement the address of the Assignee for purposes of notices and payments is The Chase Manhattan Bank, (N.A.), Corporate Trust Administration, 1 Chase Manhattan Plaza, New York, New York 10015 or such other address as the Assignee shall have furnished in writing to the Company.

Section 8. Each Manufacturer hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed

and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Company, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and the Company in accordance with its terms and that it is now in force without amendment thereto; and

(*b*) represents and warrants to the Assignee, its successors and assigns, that as of its execution and delivery of this Assignment all of its right, title and interest in and to the Conditional Sale Agreement was free of all claims, liens, security interests and other encumbrances whatsoever; and

(*c*) covenants and 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.

SECTION 9. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Company. Although this Assignment is dated for convenience as of May 1, 1971, 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 terms of this Assignment and the 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 rights conferred by Section 20c of the

Interstate Commerce Act, and to the recording provisions of any other statutes pursuant to which this Agreement may be recorded.

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 officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

General Electric Company

By .....
Vice President

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By Karl F. Long
Divisional President

Attest:

Norma Graham
Asst. Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this 5th day of August 1971, before me personally appeared KARL F. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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.

Alfred J. Neumeister
.....
Notary Public
ALFRED J. NEUMEISTER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1972

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

poration, and has the power and authority to own its properties and to carry on its business as now conducted;

(*f*) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the rights, title and interests and powers, privileges and remedies of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Company in accordance with the provisions of the Conditional Sale Agreement, were free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and, as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company, and the Lease of the same date between the Company and Pacific Fruit Express Company;

(*g*) Unless payment of the amount payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, the receipt from the Manufacturer for such payment.

In giving the opinions specified in subparagraphs (*d*) (*e*) and (*f*) of the first paragraph of this Section 6, counsel may qualify any opinion, to the effect that any agreement is enforceable in accordance with its terms, by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion. In giving the opinion specified in said subparagraph (*d*), counsel may rely, as to the authorization, execution and delivery by each Manufacturer of the documents executed by such Manufacturer, and to title to the units of Equipment of such Manufacturer at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for such Manufacturer, and as to any matters governed by the law of any jurisdiction other than New York and the United States, on the opinion of counsel for such Manufacturer or the opinion of counsel for the Company as to such matters.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Company shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account

of the Purchase Price of the Equipment to be settled for on such Closing Date, the Company shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under subparagraph (c) of the third paragraph of Article 3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Company. By any such payment, however, the Company shall not acquire any rights under this Assignment.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement shall constitute an event of default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

Section 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Company thereunder. 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. In compliance with Article 23 of the Conditional Sale Agreement the address of the Assignee for purposes of notices and payments is The Chase Manhattan Bank, (N.A.), Corporate Trust Administration, 1 Chase Manhattan Plaza, New York, New York 10015 or such other address as the Assignee shall have furnished in writing to the Company.

Section 8. Each Manufacturer hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed

and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Company, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and the Company in accordance with its terms and that it is now in force without amendment thereto; and

(*b*) represents and warrants to the Assignee, its successors and assigns, that as of its execution and delivery of this Assignment all of its right, title and interest in and to the Conditional Sale Agreement was free of all claims, liens, security interests and other encumbrances whatsoever; and

(*c*) covenants and 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.

SECTION 9. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Company. Although this Assignment is dated for convenience as of May 1, 1971, 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 terms of this Assignment and the 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 rights conferred by Section 20c of the

Interstate Commerce Act, and to the recording provisions of any other statutes pursuant to which this Agreement may be recorded.

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 officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

General Electric Company

By .....
Vice President

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By Karl F. Long
Divisional President

Attest:

Norma Graham
Asst. Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this 5th day of August 1971, before me personally appeared KARL F. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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.

Alfred J. Neumeister
.....
Notary Public
ALFRED J. NEUMEISTER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1972

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

poration, and has the power and authority to own its properties and to carry on its business as now conducted;

(*f*) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the rights, title and interests and powers, privileges and remedies of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Company in accordance with the provisions of the Conditional Sale Agreement, were free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and, as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company, and the Lease of the same date between the Company and Pacific Fruit Express Company;

(*g*) Unless payment of the amount payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, the receipt from the Manufacturer for such payment.

In giving the opinions specified in subparagraphs (*d*) (*e*) and (*f*) of the first paragraph of this Section 6, counsel may qualify any opinion, to the effect that any agreement is enforceable in accordance with its terms, by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion. In giving the opinion specified in said subparagraph (*d*), counsel may rely, as to the authorization, execution and delivery by each Manufacturer of the documents executed by such Manufacturer, and to title to the units of Equipment of such Manufacturer at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for such Manufacturer, and as to any matters governed by the law of any jurisdiction other than New York and the United States, on the opinion of counsel for such Manufacturer or the opinion of counsel for the Company as to such matters.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Company shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account

of the Purchase Price of the Equipment to be settled for on such Closing Date, the Company shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under subparagraph (c) of the third paragraph of Article 3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Company. By any such payment, however, the Company shall not acquire any rights under this Assignment.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement shall constitute an event of default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

Section 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Company thereunder. 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. In compliance with Article 23 of the Conditional Sale Agreement the address of the Assignee for purposes of notices and payments is The Chase Manhattan Bank, (N.A.), Corporate Trust Administration, 1 Chase Manhattan Plaza, New York, New York 10015 or such other address as the Assignee shall have furnished in writing to the Company.

Section 8. Each Manufacturer hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed

and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Company, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and the Company in accordance with its terms and that it is now in force without amendment thereto; and

(*b*) represents and warrants to the Assignee, its successors and assigns, that as of its execution and delivery of this Assignment all of its right, title and interest in and to the Conditional Sale Agreement was free of all claims, liens, security interests and other encumbrances whatsoever; and

(*c*) covenants and 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.

SECTION 9. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Company. Although this Assignment is dated for convenience as of May 1, 1971, 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.

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Interstate Commerce Act, and to the recording provisions of any other statutes pursuant to which this Agreement may be recorded.

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 officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

General Electric Company

By .....
Vice President

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By Karl F. Long
Divisional President

Attest:

Norma Graham
Asst. Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

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Asst. Secretary

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this 5th day of August 1971, before me personally appeared KARL F. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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.

Alfred J. Neumeister
.....
Notary Public
ALFRED J. NEUMEISTER
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1972

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 12th day of August 1971, before me personally appeared W. H. HOWARD, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK, (N.A.), 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.

Loretta Jedlicka
Notary Public

LORETTA JEDLICKA
Notary Public, State of New York
No. 31-4500161
Qualified in New York County
Commission Expires March 30, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is hereby acknowledged.

UNION PACIFIC RAILROAD COMPANY

By .....

Vice President

Dated as of May 1, 1971.

CONDITIONAL SALE AGREEMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

UNION PACIFIC RAILROAD COMPANY

AGREEMENT AND ASSIGNMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

THE CHASE MANHATTAN BANK, (N.A.), as Agent

CONDITIONAL SALE AGREEMENT, dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally, the Manufacturer, or collectively or severally called the Vendor as the context may require, all as more particularly set forth in Article 27 hereof) and Union Pacific Railroad Company, a Utah corporation (hereinafter called the Company).

Whereas, the Manufacturers have agreed to construct or cause to be constructed and to sell and deliver to the Company and the Company has agreed to purchase, the new and rebuilt railroad equipment described in Schedule A attached hereto (hereinafter called the Equipment);

Now, Therefore, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

Article 1. *Construction and Sale.* Pursuant to this Agreement, each Manufacturer shall construct or cause to be constructed and shall sell and deliver to the Company and the Company shall, subject to the provisions of this Agreement, purchase from such Manufacturer and accept delivery of and pay for (as hereinafter provided) the units of the Equipment which are described in Schedule A hereto to be constructed by or for, and sold and delivered, by the Manufacturer, each unit of which will be constructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof

as may have been agreed upon in writing by the Manufacturer and the Company (which specifications and modifications, if any, are hereinafter called the Specifications). Each Manufacturer agrees that the design, quality, and component parts of the Equipment will conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new and rebuilt equipment and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to new and rebuilt railroad equipment of the character of such units.

ARTICLE 2. *Delivery.* Each Manufacturer will deliver its units of the Equipment to the Company, freight charges prepaid, at the point specified in, and in accordance with, the delivery schedule set forth in Schedule A hereto, or at such other point and time as the Manufacturer and the Company may mutually agree upon.

The Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond its reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 2 and except as hereinbelow provided, any Equipment not delivered and accepted under this Agreement on or before November 30, 1971 shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement unless the Company, with the written consent of the Manufacturer of such units and its assignee or successor assignee, in the event of an assignment or successive assignments of this Agreement as contemplated in Article 15 hereof, shall elect to include such units of Equipment within this Agreement and shall, prior to November 30, 1971, actually deliver to the Manufacturer in writing, notice

of such election and furnish the Manufacturer with a copy of such written consent. In the event of any such exclusion, the Company and the Manufacturer shall execute an agreement or agreements supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom in such form as may be necessary for the proper filing and recording thereof in all offices where this Agreement shall at the time be filed or recorded. If the Manufacturer's failure to deliver, on or before November 30, 1971, all the Equipment, resulted from one or more of the causes referred to in the preceding paragraph, the Company shall nevertheless be obligated to accept such excluded equipment, and the Company and the Manufacturer shall execute a separate agreement or agreements providing for the purchase of such excluded Equipment by the Company, on the terms herein specified, payment to be made either in cash on delivery of such Equipment or, in the case the Company shall arrange therefor, by means of a conditional sale, equipment trust, or such other appropriate method of financing the purchase, as the Company shall determine and as shall be reasonably acceptable to the Manufacturer.

From time to time upon the completion of the construction of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector or other authorized representative of the Company for inspection at the place designated for delivery of such unit or units, and if such unit or units conform to the Specifications, requirements and standards applicable thereto, and if delivery is accepted, such inspector or authorized representative of the Company shall execute and deliver to the Manufacturer, in such number of counterparts as may reasonably be requested, a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been delivered to the Company hereunder in accordance with this Agreement, have been inspected and accepted by him on behalf of the Company, conform to the specifications applicable thereto, to all applicable Interstate Commerce Commission requirements and Specifications and to all standards recommended by the Association of American Railroads and are marked in accordance with Article 6

hereof. Each Certificate of Acceptance shall be conclusive evidence that the units of Equipment covered thereby have been delivered to the Company and conform to the Specifications and are acceptable to the Company in all details; *provided, however,* that the Manufacturer shall not be relieved of its warranties contained in Articles 13 and 14 hereof. The Company shall designate an inspector or representative who shall be reasonably available for presentation of completed units and who shall upon presentation promptly inspect and accept such units as conform with the Specifications. Delivery of any unit of Equipment under the Lease Agreement, dated as of May 1, 1971, between Pacific Car and the Company shall constitute delivery of such unit under the provisions of this Article 2 and the Certificate of Acceptance delivered pursuant to Section 1 of said Lease shall be conclusive evidence that the units described therein have been delivered to and accepted by the Company hereunder on the date of such certificate, provided no such certificate shall be dated prior to June 1, 1971.

The Manufacturer shall bear the risk of loss of each unit of Equipment or damage thereto until delivery to and acceptance by the Company. Upon delivery and acceptance by the Company of a Certificate of Acceptance with respect to any unit of Equipment, the Company shall bear the risk of loss of or damage to such unit.

ARTICLE 3. *Purchase Price and Payment.* The base price or prices per unit of the Equipment are set forth in Schedule A hereto. The base price or prices include estimated freight charges from the respective Manufacturer's plant to the point of delivery and taxes, if any, and shall be subject to increase or decrease, to the extent contemplated in the purchase order referred to in Schedule A hereof, or, as may be otherwise mutually agreed upon by the Manufacturer and the Company. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased.

For the purpose of making settlement, all the Equipment shall be divided into groups (each such group being hereinafter called a Group), each Group to consist of all units of

the Equipment, delivered to and accepted by the Company in the calendar month preceding (or in respect of the final Group, preceding or on, as the case may be) the Closing Date (fixed as hereinafter provided) in respect of such Group.

Subject to the provisions of this Article 3, the Company hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment to be constructed and sold by such Vendor, as follows:

(*a*) On the Closing Date, with respect to each Group, an amount equal to (i) 20% of the aggregate Purchase Price of all units of Equipment in such Group, as stated in the invoice or invoices therefor (hereinafter called the Group Invoiced Purchase Price), plus (ii) the amount if any, by which 80% of such Group Invoiced Purchase Price, when added to 80% of the sum of the Group Invoiced Purchase Prices of all other units of the Equipment for which settlement has theretofore been, and is then being, made exceeds the sum of (x) $21,550,000 plus (y) any amount previously paid under clause (ii) of this subparagraph (a);

(*b*) On the next succeeding Closing Date following receipt from each Manufacturer of its final certificate (hereinafter called the Final Certificate) of the aggregate Purchase Price for all of its units in all Groups settled for as provided herein, the amount, if any, by which the final aggregate Purchase Price of all such units, as stated therein (hereinafter called the Final Invoiced Purchase Price), shall exceed the sum of the Group Invoiced Purchase Prices of all such units; and

(*c*) In five substantially equal consecutive annual instalments, as hereinafter provided, an amount equal to 80% of the sum of the Group Invoiced Purchase Prices of all units of the Equipment to be sold by such Vendor (hereinafter called the Conditional Sale Indebtedness) less the amounts paid or payable in respect thereof pursuant to clause (ii) of subparagraph (a) of this paragraph, *provided, however,* that, in case

the amount payable pursuant to this subparagraph (c) shall not, when divided by 5, result in an amount ending in an integral cent, the final instalment shall be appropriately adjusted.

If this Agreement shall be assigned by any Manufacturer, the obligations of the Company under subparagraphs (a) and (b) of the preceding paragraph of this Article 3 shall be unsecured obligations, and the Manufacturer shall not have any lien on, or claim against, any unit of the Equipment or any part thereof in respect of such obligations.

The first instalment of the Conditional Sale Indebtedness shall be payable on July 15, 1973 and subsequent instalments shall be payable annually thereafter on July 15 of each year, to and including July 15, 1977. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the respective Closing Dates, regardless of any postponement thereof pursuant to the provisions of any assignment of this Agreement, at the rate of 7.25% per annum and shall be payable, to the extent accrued, semi-annually on January 15 and July 15 in each year, commencing January 15, 1972.

The Final Certificate and final invoice shall be delivered by each Manufacturer on or before December 15, 1971, and, if not so delivered, the Final Invoiced Purchase Price of the units of the Equipment shall be, for all purposes of this Agreement, the sum of the Group Invoiced Purchase Prices of such units. The Manufacturer agrees that the Group Invoiced Purchase Prices shall be so fixed that they will not in the aggregate exceed the Final Invoiced Purchase Price.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date not prior to August 15, 1971, and not later than December 31, 1971, and not more than 15 business days following presentation to the Company of the Certificates of Acceptance and the invoice or invoices for such Group, as shall be fixed by the Company by written notice delivered to the Vendor at least 7 business days prior to the Closing Date designated therein. The term

"business days" as used herein means calendar days, excluding Saturdays, Sundays, holidays and days on which banking institutions are authorized by law to close.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Company will pay, to the extent legally enforceable, interest at 8% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Payments to Manufacturers shall be made in Federal Funds. In the event of an assignment by a Manufacturer of its right to receive any payment hereunder as hereinafter contemplated, such payment to its assignee shall be made in New York Clearing House funds. In any case where the date of a payment provided for in this Agreement shall be, in the City of New York, a Saturday, Sunday, a holiday or a day on which banking institutions are authorized by law to close, then such payment need not be made on such date but may be made on the next succeeding business day and such extension of time shall, in any case, be included in computing interest, if any, in connection with such payment.

Except as provided in Article 7 hereof, the Company shall not have the privilege of prepaying any instalment of its indebtedness hereunder, prior to the date it becomes due.

Article 4. *Taxes.* All payments to be made by the Company hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor in respect of the amount of any local, state or federal taxes (other than income, gross receipts [except gross income or gross receipts taxes in the nature of sales taxes] excess profits and similar taxes) or license fees, fines or penalties hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment,

delivery or transfer of title under the terms hereof, all of which expenses, taxes and license fees, fines and penalties the Company assumes and agrees to pay on demand in addition to the Purchase Price. The Company will also pay promptly all taxes and assessments which may be imposed upon the Equipment, or for the use or operation thereof by the Company, or upon the earnings arising therefrom, or upon the Vendor solely by reason of its ownership thereof, and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Vendor or result in a lien (other than a Permitted Lien, as defined in Article 12 hereof) upon any unit of the Equipment; *provided, however,* that the Company shall be under no obligation to pay any taxes, assessments, license fees, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise hereunder. If any such expenses, assessments, license fees, charges, fines or penalties shall have been charged or levied against the Vendor directly and paid by the Vendor, the Company shall reimburse the Vendor on presentation of an invoice or invoices therefor and any amounts so paid by the Vendor shall be secured by and under this Agreement; *provided, however,* that the Company shall not be obligated to reimburse the Vendor for any expenses, taxes, assessments, license fees, charges, fines or penalties so paid unless the Vendor shall have been legally liable in respect thereof, or unless the Company shall have approved the payment thereof.

Article 5. *Title to the Equipment.* The Vendor shall, and hereby does, retain the full legal title to and property in the Equipment until the Company shall have made all of the payments hereunder, and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession

and use thereof by the Company as herein provided. Any and all additions to the Equipment and any and all replacements of parts thereof and additions thereto (except such as are not required pursuant to the applicable laws or rules referred to in Article 9 hereof and as may be removed without in any way affecting or impairing either the originally intended function or the use of any such unit of the Equipment) shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

When, and only when, the Vendor shall have been paid the full amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and all the Company's obligations herein contained shall have been performed by the Company, absolute right to the possession of, title to, and property in, the Equipment shall pass to and vest in the Company without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Company, will execute a bill or bills of sale of the Equipment transferring the Vendor's title thereto and property therein to the Company or upon its order, free of all liens and encumbrances created or retained hereby, and deliver such bill or bills of sale to the Company at its address specified in Article 23 hereof, and will execute in the same manner and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Company to the Equipment and will pay to the Company any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Company hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any certificate of payment in compliance with any law or

statute requiring the filing of the same except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Company.

Article 6. *Marking of Equipment.* The Company will cause each unit of the Equipment to be kept numbered with the indentifying number as set out in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such unit in letters not less than one inch in height, the name of the Vendor followed by the word 'Owner' or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Vendor to the Equipment and its rights under this Agreement. The Company will not place any such unit in operation, or exercise any control or dominion over any part thereof, until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Company will not change the numbers of any such units except with the consent of the Vendor and in accordance with a statement of new numbers to be substituted therefor, which consent and statement previously shall have been filed with the Vendor by the Company and filed, recorded or deposited by the Company in all public offices where this Agreement shall have been filed, recorded or deposited.

Except as above provided, the Company will not allow the name of any person, association or corporation to be placed on any unit of Equipment as a designation that might be interpreted as a claim of ownership; *provided, however,* that the Company may cause any unit of the Equipment to be lettered with the name, initials or insignia of the Company, or of a company controlling, or controlled by, or under common control with the Company (hereinafter called an Affiliate), or of a company operating such units under lease from the Company or may cause the Equipment to be lettered in some other appropriate manner for convenience

of identification of the interest of the Company or such Affiliate or lessee therein.

ARTICLE 7. *Replacement of Equipment.* In the event that any unit of Equipment shall be worn out, lost, condemned, stolen, destroyed, irreparably damaged, seized by government or otherwise rendered permanently unfit for use from any cause whatsoever (such occurrences being hereinafter called Casualty Occurrences) prior to the payment of the full amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments required hereby, the Company shall promptly (after it has knowledge of such Casualty Occurrence) and fully inform the Vendor in regard thereto. When the total Casualty Value (as hereinafter defined) of units that have suffered a Casualty Occurrence shall exceed $100,000 (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 7) and the Company shall have received knowledge thereof, the Company shall promptly pay to the Vendor a sum equal to the Casualty Value of such units, as of the date of such payment, and shall file with the Vendor a certificate of the President, any Vice President or the Treasurer of the Company setting forth the Casualty Value of such unit of Equipment suffering a Casualty Occurrence, and the Vendor shall not thereafter have any interest in such unit or in any material salvageable from such unit. For all purposes of this Article 7 the Casualty Value of any unit suffering a Casualty Occurrence (other than a replacement unit) shall be that proportion of the unpaid balance of the Conditional Sale Indebtedness, as the final Purchase Price of such unit bears to the Final Invoiced Purchase Price of the Equipment. The Casualty Value of each replacement unit suffering a Casualty Occurrence shall be that proportion of the cost of such unit (provided through the application of moneys paid to the Vendor pursuant to the first paragraph of this Article 7) which the number of instalment payment dates remaining as of the date payment is made with respect to such Casualty Occurrence, bears to the number of instalment payment dates so remaining as of the date of the acquisition of such replacement unit.

the Vendor's rights hereunder in respect thereof, the Company will, whenever requested by such assignee, change the names and word or words to be marked on each side of each unit of the Equipment so as to indicate the title of such assignee to the Equipment, with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated by the Company relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the first assignee of this Agreement (or to a successor agent in case, and to the extent that, the first assignee is an agent) of not less than all of the Equipment shall be borne by the Company. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent if the first assignee is an agent) or of an initial assignment of less than all of the Equipment shall be borne by the assignee.

In the event of any such assignment prior to the completion of delivery of the Equipment, the Company will, in connection with each settlement for a Group of Equipment subsequent to such transfer or assignment, deliver to the assignee, at the time of delivery by the Company of notice fixing the Closing Date with respect to such Group, all documents required by the terms of such assignment to be delivered to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested, except for any opinion of counsel for the assignee.

If this Agreement shall have been assigned by a Manufacturer and the assignee shall not make payment to such Manufacturer on the Closing Date with respect to a Group of Equipment of an amount equal to that portion of the aggregate Purchase Price of such Group payable by the Company pursuant to subparagraph (c) of the third paragraph of Article 3 hereof, the Manufacturer will promptly notify the Company and if such amount shall not have been

visions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company. This Agreement, including Schedule A attached hereto, exclusively and completely states the rights of the Vendor and the Company with respect to the Equipment and amends and supersedes all other agreements, oral or written, with respect to the Equipment including the Lease Agreement, dated as of May 1, 1971 between Pacific Car and the Company but excepting the Purchase Agreement, dated as of July 1, 1971 between Motor Freight and the Company.

ARTICLE 27. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder each Manufacturer, and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor or assignors as regards any rights hereunder that are retained and excluded from any assignment; and the term "Manufacturer", whenever used in this Agreement, means both before and after any such assignment, the Manufacturer, and any successor or successors for the time being to its manufacturing properties and business.

The term "Company", whenever used in this Agreement, means Union Pacific Railroad Company and also any assignee of its rights under this Agreement pursuant to the first sentence of Article 15 hereof.

ARTICLE 28. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of May 1, 1971, 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.

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 their officers or representatives thereunto duly authorized and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

General Electric Company

By .....
General Manager, Locomotive Products Department

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By B. C. Jameson
Senior Vice President

Attest:

W. H. Scudder
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By W. S. Cook
Vice President

Attest:

R. B. Gray
ASSISTANT Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF Wash
COUNTY OF King ss.:

On this 9th day of August 1971, before me personally appeared B C Jamieson, to me personally known, who, being by me duly sworn, says that he is Senior Vice President of PACIFIC CAR AND FOUNDRY 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.

Priscilla A White
.....
Notary Public

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared H. S. Cook, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Vella)
Notary Public

ELIZABETH L. GALPINE (VELLA)
Notary Public, State of New York
No. 30 6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971, Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971 Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

The Company will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may, to the extent permitted by law, recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

ARTICLE 19. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale (which is not overriden by any provision of applicable federal law), shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Company to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any unit thereof, any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Vendor's rights hereunder, and any and all rights of redemption.

ARTICLE 20. *Extension not a Waiver.* No delay or omission in the exercise of any power or remedy herein provided, or otherwise available to the Vendor, shall impair or affect the Vendor's right thereafter to exercise the same. Any extension of time for payment hereunder, or other indulgence duly granted to the Company, shall not otherwise alter or affect the Vendor's rights or the Company's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder

shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 21. *Recording.* The Company will cause this Agreement and any supplements hereto and any assignment hereof (a counterpart of the first such assignment being attached hereto) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and otherwise as may be required by law or reasonably requested by the Vendor, from time to time, for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and the Company will promptly furnish to the Vendor certificates or other evidences of such filing and recording, and an opinion or opinions of counsel for the Company with respect thereto, satisfactory to the Vendor.

ARTICLE 22. *Payment of Expenses.* The Company will pay all reasonable costs and expenses, except the counsel fees of the Manufacturers, incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related thereto, including fees and expenses of counsel for, and including stamp and other taxes, if any, of, the first assignee of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent) and any party or parties acquiring interests in such first assignment, and in connection with the transfer by any party or parties of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 23. *Notice.* Any notice to or demand upon the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage

the Vendor's rights hereunder in respect thereof, the Company will, whenever requested by such assignee, change the names and word or words to be marked on each side of each unit of the Equipment so as to indicate the title of such assignee to the Equipment, with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated by the Company relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the first assignee of this Agreement (or to a successor agent in case, and to the extent that, the first assignee is an agent) of not less than all of the Equipment shall be borne by the Company. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent if the first assignee is an agent) or of an initial assignment of less than all of the Equipment shall be borne by the assignee.

In the event of any such assignment prior to the completion of delivery of the Equipment, the Company will, in connection with each settlement for a Group of Equipment subsequent to such transfer or assignment, deliver to the assignee, at the time of delivery by the Company of notice fixing the Closing Date with respect to such Group, all documents required by the terms of such assignment to be delivered to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested, except for any opinion of counsel for the assignee.

If this Agreement shall have been assigned by a Manufacturer and the assignee shall not make payment to such Manufacturer on the Closing Date with respect to a Group of Equipment of an amount equal to that portion of the aggregate Purchase Price of such Group payable by the Company pursuant to subparagraph (c) of the third paragraph of Article 3 hereof, the Manufacturer will promptly notify the Company and if such amount shall not have been

visions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company. This Agreement, including Schedule A attached hereto, exclusively and completely states the rights of the Vendor and the Company with respect to the Equipment and amends and supersedes all other agreements, oral or written, with respect to the Equipment including the Lease Agreement, dated as of May 1, 1971 between Pacific Car and the Company but excepting the Purchase Agreement, dated as of July 1, 1971 between Motor Freight and the Company.

ARTICLE 27. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder each Manufacturer, and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor or assignors as regards any rights hereunder that are retained and excluded from any assignment; and the term "Manufacturer", whenever used in this Agreement, means both before and after any such assignment, the Manufacturer, and any successor or successors for the time being to its manufacturing properties and business.

The term "Company", whenever used in this Agreement, means Union Pacific Railroad Company and also any assignee of its rights under this Agreement pursuant to the first sentence of Article 15 hereof.

ARTICLE 28. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of May 1, 1971, 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.

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 their officers or representatives thereunto duly authorized and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

General Electric Company

By .....
General Manager, Locomotive Products Department

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By B. C. Jameson
Senior Vice President

Attest:

W. H. Scudder
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By W. S. Cook
Vice President

Attest:

R. B. Gray
ASSISTANT Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF Wash
COUNTY OF King ss.:

On this 9th day of August 1971, before me personally appeared B C Jamieson, to me personally known, who, being by me duly sworn, says that he is Senior Vice President of PACIFIC CAR AND FOUNDRY 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.

Priscilla A White
.....
Notary Public

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared H. S. Cook, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Vella)
Notary Public

ELIZABETH L. GALPINE (VELLA)
Notary Public, State of New York
No. 30 6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971, Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971 Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

The Company will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may, to the extent permitted by law, recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

ARTICLE 19. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale (which is not overriden by any provision of applicable federal law), shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Company to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any unit thereof, any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Vendor's rights hereunder, and any and all rights of redemption.

ARTICLE 20. *Extension not a Waiver.* No delay or omission in the exercise of any power or remedy herein provided, or otherwise available to the Vendor, shall impair or affect the Vendor's right thereafter to exercise the same. Any extension of time for payment hereunder, or other indulgence duly granted to the Company, shall not otherwise alter or affect the Vendor's rights or the Company's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder

shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 21. *Recording.* The Company will cause this Agreement and any supplements hereto and any assignment hereof (a counterpart of the first such assignment being attached hereto) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and otherwise as may be required by law or reasonably requested by the Vendor, from time to time, for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and the Company will promptly furnish to the Vendor certificates or other evidences of such filing and recording, and an opinion or opinions of counsel for the Company with respect thereto, satisfactory to the Vendor.

ARTICLE 22. *Payment of Expenses.* The Company will pay all reasonable costs and expenses, except the counsel fees of the Manufacturers, incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related thereto, including fees and expenses of counsel for, and including stamp and other taxes, if any, of, the first assignee of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent) and any party or parties acquiring interests in such first assignment, and in connection with the transfer by any party or parties of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 23. *Notice.* Any notice to or demand upon the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage

prepaid, to the Company at 345 Park Avenue, New York, New York 10022 or at such other address as may have been furnished in writing to the Vendor by the Company. Any notice to or demand upon the Manufacturers pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to General Electric at 2901 East Lake Road, Erie, Pennsylvania, to Gunderson, Inc. at 4700 Northwest Front Avenue, Portland, Oregon 97208, to International Car, at 835 Englewood Avenue, Buffalo, New York, to Motor Freight, at 1416 Dodge Street, Omaha, Nebraska, to Pacific Car at 1400 North Fourth Street, Renton, Washington 98005, and to The Darby Products of Steel Plate Corporation, at First and Walker, Kansas City, Kansas or at such other address as may have been furnished in writing to the Company by any such Manufacturer. Unless otherwise herein provided, any notice to or demand upon any assignee of the Vendor or of the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to such assignee at such address as may have been furnished in writing to the Company or the Vendor, as the case may be, by such assignee. An affidavit with respect to such mailing of any notice or demand by the person mailing the same shall be deemed to be conclusive evidence of the giving of such notice or the making of such demand.

Article 24. *Law Governing.* The terms of this Agreement and the 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 rights conferred by Section 20c of the Interstate Commerce Act and to the recording provisions of any other statute pursuant to which this Assignment may be recorded.

Article 25. *Article Headings.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Article 26. *Effect and Modification of Agreement.* No variation of this Agreement and no waiver of any of its pro-

visions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company. This Agreement, including Schedule A attached hereto, exclusively and completely states the rights of the Vendor and the Company with respect to the Equipment and amends and supersedes all other agreements, oral or written, with respect to the Equipment including the Lease Agreement, dated as of May 1, 1971 between Pacific Car and the Company but excepting the Purchase Agreement, dated as of July 1, 1971 between Motor Freight and the Company.

ARTICLE 27. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder each Manufacturer, and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor or assignors as regards any rights hereunder that are retained and excluded from any assignment; and the term "Manufacturer", whenever used in this Agreement, means both before and after any such assignment, the Manufacturer, and any successor or successors for the time being to its manufacturing properties and business.

The term "Company", whenever used in this Agreement, means Union Pacific Railroad Company and also any assignee of its rights under this Agreement pursuant to the first sentence of Article 15 hereof.

ARTICLE 28. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of May 1, 1971, 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.

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 their officers or representatives thereunto duly authorized and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

General Electric Company

By .....
General Manager, Locomotive Products Department

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By B. C. Jameson
Senior Vice President

Attest:

W. H. Scudder
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By W. S. Cook
Vice President

Attest:

R. B. Gray
ASSISTANT Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF Wash
COUNTY OF King ss.:

On this 9th day of August 1971, before me personally appeared B C Jamieson, to me personally known, who, being by me duly sworn, says that he is Senior Vice President of PACIFIC CAR AND FOUNDRY 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.

Priscilla A White
.....
Notary Public

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared H. S. Cook, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Vella)
Notary Public

ELIZABETH L. GALPINE (VELLA)
Notary Public, State of New York
No. 30 6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

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					Total	$26,937,916	

SCHEDULE B

Manufacturer	*Warranty*
General Electric	To repair at the Manufacturer's plant or to deliver to the Company at its plant a new part to replace any part that may fail under normal service within two years after shipment from the Manufacturer's plant or before the unit of Equipment in which such part is located has been 250,000 miles in scheduled service, whichever event shall first occur, because of faulty work done by the Manufacturer or defective material in equipment manufactured by the Manufacturer.
Gunderson Motor Freight	To repair or to deliver to the Company at its plant a new part to replace the defective part or to pay the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchanged Traffic, any part of any unit that may fail under normal service within two years after shipment from the Manufacturer's plant because of inadequate design, faulty work done, or defective material made by the Manufacturer.
International Car Darby	To repair at the Manufacturer's plant or to deliver to the Company at the Manufacturer's plant, a new part to replace any part of any unit that may fail under normal service within one year after shipment from the Manufacturer's plant because of faulty work done or defective material made by the Manufacturer.
Pacific Car	To repair the defect at the Manufacturer's plant or to replace the defective part or to pay the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchanged Traffic, any part of any unit that may fail under normal service within two years after delivery of such unit to the Company.

AGREEMENT AND ASSIGNMENT dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally the Manufacturer) and The Chase Manhattan Bank (National Association), a national banking association with its business address at 1 Chase Manhattan Plaza, New York, New York 10015, acting as Agent under an Agreement dated as of May 1, 1971 (hereinafter called the Finance Agreement) and said banking corporation, so acting being hereinafter called the Assignee.

Whereas, the Manufacturers and Union Pacific Railroad Company, a corporation duly organized and existing under the laws of the State of Utah, with an office in New York, New York (hereinafter called the Company), have entered into a Conditional Sale Agreement, dated as of May 1, 1971 (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Manufacturers and the purchase by the Company of the railroad equipment described in Schedule A to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

Now, Therefore, This Agreement Witnesseth: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Manufacturers, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

Section 1. Each Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(*a*) All of its right, title and interest in and to the Equipment and each unit thereof when and as severally

delivered and accepted under the Conditional Sale Agreement, and upon payment by the Assignee to the Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(*b*) All of its right, title and interest in and to the Conditional Sale Agreement in respect of the Equipment (except the rights to construct or cause to be constructed and to deliver the Equipment and the rights to receive the payments specified in subparagraphs (*a*) and (*b*) of the third paragraph of Article 3 thereof and in the final paragraph of Article 15 thereof) and the right to reimbursement for taxes as provided in Article 4 of the Conditional Sale Agreement, and in and to any and all amounts which may be or become due or owing by the Company to the Manufacturer under the Conditional Sale Agreement on account of its indebtedness in respect of the aggregate Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Company under the Conditional Sale Agreement, other than those hereinabove excluded; and

(*c*) All of the Manufacturer's rights (except as herein limited), powers, privileges and remedies under the Conditional Sale Agreement

(without any recourse, however, against the Manufacturer for or on account of the failure of the Company to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); *provided, however,* that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Manufacturer to construct or cause to be constructed and to deliver the Equipment in accordance with the Conditional Sale Agreement or in respect of its warranties and indemnities contained in Articles 13 and 14 of the Conditional Sale Agreement or relieve the Company from its obligations to the Manufacturer under Articles 1, 2, 3, 4, 13, 14 and 15 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent

assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Company in respect of the Equipment shall be and remain enforceable by the Company, its successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer, 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 compliance by the Company with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

Each Manufacturer agrees that any amount payable to it by the Company, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any of the units of Equipment.

SECTION 2. Each Manufacturer covenants and agrees that it will cause the Equipment to be sold by such Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Company in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by it. Each Manufacturer further covenants and agrees that it will warrant to the Assignee and the Company that at the time of delivery and acceptance of each unit of the Equipment sold by it, it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and as to units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, be-

tween Pacific Car and the Company and the Lease as of the same date between the Company and Pacific Fruit Express Company; and the Manufacturer further covenants and agrees that it will defend such title against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Manufacturer under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Company thereunder. The Manufacturer will not deliver any of the Equipment to the Company until the filings and recordations referred to in Article 21 of the Conditional Sale Agreement have been effected, as to which fact Manufacturer and its counsel may rely upon advice of counsel for the Company.

Section 3. Each Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any amount which may be due or owing by the Company on account of its indebtedness in respect of the aggregate Purchase Price of the Equipment and interest thereon, and any other sums becoming due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, it will save, indemnify and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever of the Company arising out of a breach by the Manufacturer of any obligation in respect of the Equipment, or the manufacture, construction, delivery or warranty thereof, or under Articles 13 and 14 of the Conditional Sale Agreement, or by reason of any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Company by the Manufacturer. Any and all such obligations shall be and remain enforceable by the Company against and only against the Manufacturer and shall not be enforceable against the Assignee or any party or parties in whom title to the Equipment, or any unit thereof, or any of the rights of the Manufacturer under the Conditional Sale Agreement, shall vest by reason

of this assignment or of successive assignments or transfers. The Manufacturer shall have no liability under the foregoing provisions of this Section 3 unless (a) the Assignee, in any such suit, proceeding or action by the Assignee, hereinabove described, promptly moves or takes other appropriate action on the basis of Article 15 of the Conditional Sale Agreement, to strike any such defense, set-off, counterclaim or recoupment asserted by the Company and the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, set-off, counterclaim or recoupment as a triable issue in such suit, proceeding or action, and (b) upon any such denial and acceptance, the Assignee promptly notifies the Manufacturer of any such defense, set-off, counterclaim or recoupment asserted by the Company and the Manufacturer is given the right by the Assignee to compromise, settle or defend against, at its expense, such defense, set-off, counterclaim or recoupment. The Manufacturer will indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction of the Equipment, or any unit thereof, of any design, system, process, formula, article or material which infringes, or is claimed to infringe, on any patent or other right, except for any design, system, process or formula specified by the Company and not developed or purported to be developed by the Manufacturer or any article or material specified by the Company and not manufactured by the Manufacturer.

SECTION 4. Each Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, at the time of delivery thereof to the Company, in letters not less than one inch in height, the following legend:

"OWNED BY A SECURED PARTY UNDER A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20C".

SECTION 5. Upon payment to a Manufacturer of an amount equal to the Final Invoiced Purchase Price (as defined in Article 3 of the Conditional Sale Agreement) and a request of the Assignee, its successors or assigns, the Manufacturer will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Manufacturer therein or in the Equipment.

SECTION 6. The Assignee, on each Closing Date fixed as provided in Article 3 of the Conditional Sale Agreement with respect to a Group of Equipment (as defined in said Article 3) or as otherwise hereinafter set forth, shall pay to each Manufacturer an amount equal to that portion of the Purchase Price of such Group to be paid pursuant to subparagraph (*c*) of the third paragraph of said Article 3 in respect of units of Equipment of such Manufacturer included in such Group, provided that there shall have been delivered to the Assignee at least 3 business days prior to such closing date, as provided in Article 15 of the Conditional Sale Agreement, the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to it and to its special counsel:

(*a*) Bill of Sale from such Manufacturer to the Assignee transferring to the Assignee title to the units of the Equipment in such Group of such Manufacturer and warranting to the Assignee and to the Company that at the time of delivery to and acceptance by the Company in accordance with the provisions of the Conditional Sale Agreement the Manufacturer had legal title to such units and good and lawful right to sell such units and title to such units was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company and the Lease of the same date between the Company and Pacific

Interstate Commerce Act, and to the recording provisions of any other statutes pursuant to which this Agreement may be recorded.

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 officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

General Electric Company

By .....
Attest: *Vice President*

.....
Secretary

Gunderson, Inc.

By .....
Attest: *Vice President*

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Attest: *Divisional President*

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By B. C. Jameson
Senior *Vice President*

Attest:

W. H. Scudder
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF Wash
COUNTY OF King SS.:

On this 9th day of August 1974, before me personally appeared B.C. Jameson, to me personally known, who, being by me duly sworn, says that he is ~~a~~ Sr Vice President of PACIFIC CAR AND FOUNDRY 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.

Priscilla White
.....
Notary Public

STATE OF
COUNTY OF SS.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

Interstate Commerce Act, and to the recording provisions of any other statutes pursuant to which this Agreement may be recorded.

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 officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

General Electric Company

By .....
Attest: *Vice President*

.....
Secretary

Gunderson, Inc.

By .....
Attest: *Vice President*

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Attest: *Divisional President*

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By B. C. Jameson
Senior *Vice President*

Attest:

W. H. Scudder
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF Wash
COUNTY OF King SS.:

On this 9th day of August 1974, before me personally appeared B.C. Jameson, to me personally known, who, being by me duly sworn, says that he is ~~a~~ Sr Vice President of PACIFIC CAR AND FOUNDRY 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.

Priscilla White
.....
Notary Public

STATE OF
COUNTY OF SS.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York ss.:

On this 12th day of August 1971, before me personally appeared U. L. HOWARD, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK, (N.A.), 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.

Loretta Jedlicka
Notary Public

LORETTA JEDLICKA
Notary Public, State of New York
No. 31-4500161
Qualified in New York County
Commission Expires March 30, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is hereby acknowledged.

UNION PACIFIC RAILROAD COMPANY

By W. S. Cook.....

Vice President

Dated as of May 1, 1971.

CONDITIONAL SALE AGREEMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

UNION PACIFIC RAILROAD COMPANY

AGREEMENT AND ASSIGNMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

THE CHASE MANHATTAN BANK, (N.A.), as Agent

CONDITIONAL SALE AGREEMENT, dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally, the Manufacturer, or collectively or severally called the Vendor as the context may require, all as more particularly set forth in Article 27 hereof) and Union Pacific Railroad Company, a Utah corporation (hereinafter called the Company).

Whereas, the Manufacturers have agreed to construct or cause to be constructed and to sell and deliver to the Company and the Company has agreed to purchase, the new and rebuilt railroad equipment described in Schedule A attached hereto (hereinafter called the Equipment);

Now, Therefore, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

Article 1. *Construction and Sale.* Pursuant to this Agreement, each Manufacturer shall construct or cause to be constructed and shall sell and deliver to the Company and the Company shall, subject to the provisions of this Agreement, purchase from such Manufacturer and accept delivery of and pay for (as hereinafter provided) the units of the Equipment which are described in Schedule A hereto to be constructed by or for, and sold and delivered, by the Manufacturer, each unit of which will be constructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof

as may have been agreed upon in writing by the Manufacturer and the Company (which specifications and modifications, if any, are hereinafter called the Specifications). Each Manufacturer agrees that the design, quality, and component parts of the Equipment will conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new and rebuilt equipment and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to new and rebuilt railroad equipment of the character of such units.

Article 2. *Delivery.* Each Manufacturer will deliver its units of the Equipment to the Company, freight charges prepaid, at the point specified in, and in accordance with, the delivery schedule set forth in Schedule A hereto, or at such other point and time as the Manufacturer and the Company may mutually agree upon.

The Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond its reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 2 and except as hereinbelow provided, any Equipment not delivered and accepted under this Agreement on or before November 30, 1971 shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement unless the Company, with the written consent of the Manufacturer of such units and its assignee or successor assignee, in the event of an assignment or successive assignments of this Agreement as contemplated in Article 15 hereof, shall elect to include such units of Equipment within this Agreement and shall, prior to November 30, 1971, actually deliver to the Manufacturer in writing, notice

of such election and furnish the Manufacturer with a copy of such written consent. In the event of any such exclusion, the Company and the Manufacturer shall execute an agreement or agreements supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom in such form as may be necessary for the proper filing and recording thereof in all offices where this Agreement shall at the time be filed or recorded. If the Manufacturer's failure to deliver, on or before November 30, 1971, all the Equipment, resulted from one or more of the causes referred to in the preceding paragraph, the Company shall nevertheless be obligated to accept such excluded equipment, and the Company and the Manufacturer shall execute a separate agreement or agreements providing for the purchase of such excluded Equipment by the Company, on the terms herein specified, payment to be made either in cash on delivery of such Equipment or, in the case the Company shall arrange therefor, by means of a conditional sale, equipment trust, or such other appropriate method of financing the purchase, as the Company shall determine and as shall be reasonably acceptable to the Manufacturer.

From time to time upon the completion of the construction of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector or other authorized representative of the Company for inspection at the place designated for delivery of such unit or units, and if such unit or units conform to the Specifications, requirements and standards applicable thereto, and if delivery is accepted, such inspector or authorized representative of the Company shall execute and deliver to the Manufacturer, in such number of counterparts as may reasonably be requested, a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been delivered to the Company hereunder in accordance with this Agreement, have been inspected and accepted by him on behalf of the Company, conform to the specifications applicable thereto, to all applicable Interstate Commerce Commission requirements and Specifications and to all standards recommended by the Association of American Railroads and are marked in accordance with Article 6

"business days" as used herein means calendar days, excluding Saturdays, Sundays, holidays and days on which banking institutions are authorized by law to close.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Company will pay, to the extent legally enforceable, interest at 8% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Payments to Manufacturers shall be made in Federal Funds. In the event of an assignment by a Manufacturer of its right to receive any payment hereunder as hereinafter contemplated, such payment to its assignee shall be made in New York Clearing House funds. In any case where the date of a payment provided for in this Agreement shall be, in the City of New York, a Saturday, Sunday, a holiday or a day on which banking institutions are authorized by law to close, then such payment need not be made on such date but may be made on the next succeeding business day and such extension of time shall, in any case, be included in computing interest, if any, in connection with such payment.

Except as provided in Article 7 hereof, the Company shall not have the privilege of prepaying any instalment of its indebtedness hereunder, prior to the date it becomes due.

Article 4. *Taxes.* All payments to be made by the Company hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor in respect of the amount of any local, state or federal taxes (other than income, gross receipts [except gross income or gross receipts taxes in the nature of sales taxes] excess profits and similar taxes) or license fees, fines or penalties hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment,

delivery or transfer of title under the terms hereof, all of which expenses, taxes and license fees, fines and penalties the Company assumes and agrees to pay on demand in addition to the Purchase Price. The Company will also pay promptly all taxes and assessments which may be imposed upon the Equipment, or for the use or operation thereof by the Company, or upon the earnings arising therefrom, or upon the Vendor solely by reason of its ownership thereof, and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Vendor or result in a lien (other than a Permitted Lien, as defined in Article 12 hereof) upon any unit of the Equipment; *provided, however,* that the Company shall be under no obligation to pay any taxes, assessments, license fees, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise hereunder. If any such expenses, assessments, license fees, charges, fines or penalties shall have been charged or levied against the Vendor directly and paid by the Vendor, the Company shall reimburse the Vendor on presentation of an invoice or invoices therefor and any amounts so paid by the Vendor shall be secured by and under this Agreement; *provided, however,* that the Company shall not be obligated to reimburse the Vendor for any expenses, taxes, assessments, license fees, charges, fines or penalties so paid unless the Vendor shall have been legally liable in respect thereof, or unless the Company shall have approved the payment thereof.

Article 5. *Title to the Equipment.* The Vendor shall, and hereby does, retain the full legal title to and property in the Equipment until the Company shall have made all of the payments hereunder, and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession

and use thereof by the Company as herein provided. Any and all additions to the Equipment and any and all replacements of parts thereof and additions thereto (except such as are not required pursuant to the applicable laws or rules referred to in Article 9 hereof and as may be removed without in any way affecting or impairing either the originally intended function or the use of any such unit of the Equipment) shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

When, and only when, the Vendor shall have been paid the full amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and all the Company's obligations herein contained shall have been performed by the Company, absolute right to the possession of, title to, and property in, the Equipment shall pass to and vest in the Company without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Company, will execute a bill or bills of sale of the Equipment transferring the Vendor's title thereto and property therein to the Company or upon its order, free of all liens and encumbrances created or retained hereby, and deliver such bill or bills of sale to the Company at its address specified in Article 23 hereof, and will execute in the same manner and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Company to the Equipment and will pay to the Company any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Company hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any certificate of payment in compliance with any law or

"business days" as used herein means calendar days, excluding Saturdays, Sundays, holidays and days on which banking institutions are authorized by law to close.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Company will pay, to the extent legally enforceable, interest at 8% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Payments to Manufacturers shall be made in Federal Funds. In the event of an assignment by a Manufacturer of its right to receive any payment hereunder as hereinafter contemplated, such payment to its assignee shall be made in New York Clearing House funds. In any case where the date of a payment provided for in this Agreement shall be, in the City of New York, a Saturday, Sunday, a holiday or a day on which banking institutions are authorized by law to close, then such payment need not be made on such date but may be made on the next succeeding business day and such extension of time shall, in any case, be included in computing interest, if any, in connection with such payment.

Except as provided in Article 7 hereof, the Company shall not have the privilege of prepaying any instalment of its indebtedness hereunder, prior to the date it becomes due.

Article 4. *Taxes.* All payments to be made by the Company hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor in respect of the amount of any local, state or federal taxes (other than income, gross receipts [except gross income or gross receipts taxes in the nature of sales taxes] excess profits and similar taxes) or license fees, fines or penalties hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment,

delivery or transfer of title under the terms hereof, all of which expenses, taxes and license fees, fines and penalties the Company assumes and agrees to pay on demand in addition to the Purchase Price. The Company will also pay promptly all taxes and assessments which may be imposed upon the Equipment, or for the use or operation thereof by the Company, or upon the earnings arising therefrom, or upon the Vendor solely by reason of its ownership thereof, and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Vendor or result in a lien (other than a Permitted Lien, as defined in Article 12 hereof) upon any unit of the Equipment; *provided, however,* that the Company shall be under no obligation to pay any taxes, assessments, license fees, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise hereunder. If any such expenses, assessments, license fees, charges, fines or penalties shall have been charged or levied against the Vendor directly and paid by the Vendor, the Company shall reimburse the Vendor on presentation of an invoice or invoices therefor and any amounts so paid by the Vendor shall be secured by and under this Agreement; *provided, however,* that the Company shall not be obligated to reimburse the Vendor for any expenses, taxes, assessments, license fees, charges, fines or penalties so paid unless the Vendor shall have been legally liable in respect thereof, or unless the Company shall have approved the payment thereof.

Article 5. *Title to the Equipment.* The Vendor shall, and hereby does, retain the full legal title to and property in the Equipment until the Company shall have made all of the payments hereunder, and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession

and use thereof by the Company as herein provided. Any and all additions to the Equipment and any and all replacements of parts thereof and additions thereto (except such as are not required pursuant to the applicable laws or rules referred to in Article 9 hereof and as may be removed without in any way affecting or impairing either the originally intended function or the use of any such unit of the Equipment) shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

When, and only when, the Vendor shall have been paid the full amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and all the Company's obligations herein contained shall have been performed by the Company, absolute right to the possession of, title to, and property in, the Equipment shall pass to and vest in the Company without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Company, will execute a bill or bills of sale of the Equipment transferring the Vendor's title thereto and property therein to the Company or upon its order, free of all liens and encumbrances created or retained hereby, and deliver such bill or bills of sale to the Company at its address specified in Article 23 hereof, and will execute in the same manner and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Company to the Equipment and will pay to the Company any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Company hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any certificate of payment in compliance with any law or

statute requiring the filing of the same except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Company.

ARTICLE 6. *Marking of Equipment.* The Company will cause each unit of the Equipment to be kept numbered with the indentifying number as set out in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such unit in letters not less than one inch in height, the name of the Vendor followed by the word 'Owner' or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Vendor to the Equipment and its rights under this Agreement. The Company will not place any such unit in operation, or exercise any control or dominion over any part thereof, until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Company will not change the numbers of any such units except with the consent of the Vendor and in accordance with a statement of new numbers to be substituted therefor, which consent and statement previously shall have been filed with the Vendor by the Company and filed, recorded or deposited by the Company in all public offices where this Agreement shall have been filed, recorded or deposited.

Except as above provided, the Company will not allow the name of any person, association or corporation to be placed on any unit of Equipment as a designation that might be interpreted as a claim of ownership; *provided, however,* that the Company may cause any unit of the Equipment to be lettered with the name, initials or insignia of the Company, or of a company controlling, or controlled by, or under common control with the Company (hereinafter called an Affiliate), or of a company operating such units under lease from the Company or may cause the Equipment to be lettered in some other appropriate manner for convenience

of identification of the interest of the Company or such Affiliate or lessee therein.

ARTICLE 7. *Replacement of Equipment.* In the event that any unit of Equipment shall be worn out, lost, condemned, stolen, destroyed, irreparably damaged, seized by government or otherwise rendered permanently unfit for use from any cause whatsoever (such occurrences being hereinafter called Casualty Occurrences) prior to the payment of the full amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments required hereby, the Company shall promptly (after it has knowledge of such Casualty Occurrence) and fully inform the Vendor in regard thereto. When the total Casualty Value (as hereinafter defined) of units that have suffered a Casualty Occurrence shall exceed $100,000 (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 7) and the Company shall have received knowledge thereof, the Company shall promptly pay to the Vendor a sum equal to the Casualty Value of such units, as of the date of such payment, and shall file with the Vendor a certificate of the President, any Vice President or the Treasurer of the Company setting forth the Casualty Value of such unit of Equipment suffering a Casualty Occurrence, and the Vendor shall not thereafter have any interest in such unit or in any material salvageable from such unit. For all purposes of this Article 7 the Casualty Value of any unit suffering a Casualty Occurrence (other than a replacement unit) shall be that proportion of the unpaid balance of the Conditional Sale Indebtedness, as the final Purchase Price of such unit bears to the Final Invoiced Purchase Price of the Equipment. The Casualty Value of each replacement unit suffering a Casualty Occurrence shall be that proportion of the cost of such unit (provided through the application of moneys paid to the Vendor pursuant to the first paragraph of this Article 7) which the number of instalment payment dates remaining as of the date payment is made with respect to such Casualty Occurrence, bears to the number of instalment payment dates so remaining as of the date of the acquisition of such replacement unit.

Any money paid to the Vendor pursuant to the preceding paragraph of this Article 7 shall, so long as none of the events of default specified in Article 17 hereof shall have occurred and be continuing, be applied, in whole or in part, as the Company may direct in a written instrument filed with the Vendor, to prepay instalments of the Conditional Sale Indebtedness, or, toward the cost to the Vendor (which cost shall be the cost or fair value, as the case may be, set forth in the officer's certificate hereinbelow provided for in the next succeeding subparagraph (1)) of a comparable unit or units of standard-gauge railroad equipment (other than work or passenger equipment) first put into service no earlier than May 1, 1971, to replace such unit suffering a Casualty Occurrence; *provided, however,* that, if at any time after the last Closing Date, the total amount of such moneys on deposit with the Vendor shall exceed the total amount of the remaining unpaid instalments of the Conditional Sale Indebtedness, the Vendor shall, on request of the Company, pay the amount of such excess to the Company. In case any money is applied to prepay instalments, it shall be so applied, on the instalment date next following receipt by the Vendor of such written direction, to reduce instalments falling due in the inverse order of their maturities, after payment by the Company of all interest then accrued on each instalment or portion thereof so prepaid, but without premium.

The Company will cause any replacement unit or units to be marked as provided in Article 6 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement. Title to all such replacements shall be vested in the Vendor free and clear of all prior claims, liens, security interests and other encumbrances, except Permitted Liens as defined in Article 12 hereof, and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Company shall execute, acknowledge, deliver, file, record or deposit all such documents (including the filing with the Interstate Commerce Commission in

accordance with Section 20c of the Interstate Commerce Act of an appropriate supplemental agreement describing such replacements) and do any and all such acts as may be necessary to cause such replacements to come under and be subject to this Agreement, and to protect the title of the Vendor to such replacement units. All such replacement units shall be warranteed in like manner as is customary for units of like type and age. Whenever the Company shall file with the Vendor a written direction to apply amounts toward the cost of any replacement unit or units, the Company shall file therewith in such number of counterparts as may reasonably be requested:

(1) a certificate of a Vice President or the Chief Mechanical and Engineering Officer of the Company certifying that such replacement unit is standard-gauge railroad equipment (other than work or passenger equipment) first put into service no earlier than May 1, 1971, and is warranteed by the manufacturer of such unit in like manner as is customary for equipment of like type and age, and has been marked as required by the provisions of this Article 7, and certifying, in the event such replacement unit is new equipment, the cost of such replacement unit and, in the event such replacement unit shall be equipment theretofore used in railroad service, the fair value thereof;

(2) an opinion of counsel for the Company that title to such replacement unit is vested in the Vendor free and clear of all prior claims, liens, security interests and other encumbrances except Permitted Liens as defined in Article 12 thereof, that such unit has come under and become subject to this Agreement and that the Company has duly filed with the Interstate Commerce Commission, as provided by the third paragraph of this Article 7, the supplemental agreement required hereby and duly taken all other action required hereby; and

(3) a bill of sale to the Vendor from the owner of such replacement units in form and substance satisfactory to the Vendor, together with the warranty referred to in clause (1) above.

So long as none of the events of default specified in Article 17 hereof shall have happened and be continuing, any money paid to the Vendor pursuant to this Article 7 shall, if the Company shall in writing so direct, be invested, and reinvested pending its application as hereinabove provided, in such bonds, notes, or other direct obligations of the United States of America, or obligations for which the full faith and credit of the United States is pledged to provide for the payment of interest and principal or open market commercial paper rated "prime" or its equivalent by Standard & Poor's Corporation or Moody's Investors Service, Inc., or successor to either of them or in certificates of deposit of commercial banks in the United States of America having capital and surplus aggregating at least $50,000,000, in each case maturing in not more than one year from the date of such investment (hereinafter called Authorized Investments), as may be specified in such written direction. Any such obligation shall from time to time be sold and the proceeds thereof reinvested in such Authorized Investments as the Company may in writing direct. Any interest received by the Vendor on any Authorized Investments shall be held by the Vendor and applied as herein provided. Upon any sale or payment at maturity of any Authorized Investments, the proceeds thereof, plus any interest received by the Vendor thereon, up to the cost (including accrued interest) thereof shall be held by the Vendor for application pursuant to this Article 7. If such proceeds (plus such interest) shall be less than such cost, the Company will promptly pay to the Vendor an amount equal to such deficiency, and unless, an event of default specified in Article 17 hereof shall have occurred and be continuing, if the amounts received thereon, including interest received upon or prior to such disposition, shall exceed such cost, the excess shall be paid to the Company upon its written request. The Company will pay all expenses incurred by the Vendor in connection with the purchase and sale of Authorized Investments.

If one of the Events of Default specified in Article 17 hereof shall have happened and be continuing, then so long as such Event of Default shall continue all money then

held by the Vendor pursuant to this Article 7 (including for this purpose Authorized Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 18 hereof.

ARTICLE 8. *Maintenance and Repair.* The Company will at all times maintain the Equipment in good order and good running repair at its own expense.

ARTICLE 9. *Compliance with Laws and Rules.* During the term of this Agreement the Company will comply in all respects with all laws of the jurisdictions in which operations of the Company involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Company will conform therewith, at its expense, and will maintain the same in proper condition for operation under such laws and rules; *provided, however,* that the Company may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor hereunder.

ARTICLE 10. *Reports and Inspections.* On or before April 30 in each year, commencing with the year 1972, the Company shall furnish to the Vendor an accurate statement signed by an officer of the Company as of the preceding December 31, (a) showing the amount, description and numbers of the Equipment then covered hereby, the amount, description and numbers of all units of the Equipment that may have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement), and such other infor-

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Attest:

.....
ASSISTANT *Secretary*

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF NEBRASKA
COUNTY OF DOUGLAS ss.:

On this 17th day of August, 1971, before me personally appeared J. C. KENEFICK, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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.

R. E. Holmberg
Notary Public

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August, 1971, before me personally appeared W. S. Cook, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Villa)
Notary Public

ELIZABETH L. GALPINE (VILLA)
Notary Public, State of New York
No. 30-6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971, Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971 Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 21. *Recording.* The Company will cause this Agreement and any supplements hereto and any assignment hereof (a counterpart of the first such assignment being attached hereto) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and otherwise as may be required by law or reasonably requested by the Vendor, from time to time, for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and the Company will promptly furnish to the Vendor certificates or other evidences of such filing and recording, and an opinion or opinions of counsel for the Company with respect thereto, satisfactory to the Vendor.

ARTICLE 22. *Payment of Expenses.* The Company will pay all reasonable costs and expenses, except the counsel fees of the Manufacturers, incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related thereto, including fees and expenses of counsel for, and including stamp and other taxes, if any, of, the first assignee of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent) and any party or parties acquiring interests in such first assignment, and in connection with the transfer by any party or parties of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 23. *Notice.* Any notice to or demand upon the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage

prepaid, to the Company at 345 Park Avenue, New York, New York 10022 or at such other address as may have been furnished in writing to the Vendor by the Company. Any notice to or demand upon the Manufacturers pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to General Electric at 2901 East Lake Road, Erie, Pennsylvania, to Gunderson, Inc. at 4700 Northwest Front Avenue, Portland, Oregon 97208, to International Car, at 835 Englewood Avenue, Buffalo, New York, to Motor Freight, at 1416 Dodge Street, Omaha, Nebraska, to Pacific Car at 1400 North Fourth Street, Renton, Washington 98005, and to The Darby Products of Steel Plate Corporation, at First and Walker, Kansas City, Kansas or at such other address as may have been furnished in writing to the Company by any such Manufacturer. Unless otherwise herein provided, any notice to or demand upon any assignee of the Vendor or of the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to such assignee at such address as may have been furnished in writing to the Company or the Vendor, as the case may be, by such assignee. An affidavit with respect to such mailing of any notice or demand by the person mailing the same shall be deemed to be conclusive evidence of the giving of such notice or the making of such demand.

ARTICLE 24. *Law Governing.* The terms of this Agreement and the 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 rights conferred by Section 20c of the Interstate Commerce Act and to the recording provisions of any other statute pursuant to which this Assignment may be recorded.

ARTICLE 25. *Article Headings.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

ARTICLE 26. *Effect and Modification of Agreement.* No variation of this Agreement and no waiver of any of its pro-

visions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company. This Agreement, including Schedule A attached hereto, exclusively and completely states the rights of the Vendor and the Company with respect to the Equipment and amends and supersedes all other agreements, oral or written, with respect to the Equipment including the Lease Agreement, dated as of May 1, 1971 between Pacific Car and the Company but excepting the Purchase Agreement, dated as of July 1, 1971 between Motor Freight and the Company.

ARTICLE 27. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder each Manufacturer, and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor or assignors as regards any rights hereunder that are retained and excluded from any assignment; and the term "Manufacturer", whenever used in this Agreement, means both before and after any such assignment, the Manufacturer, and any successor or successors for the time being to its manufacturing properties and business.

The term "Company", whenever used in this Agreement, means Union Pacific Railroad Company and also any assignee of its rights under this Agreement pursuant to the first sentence of Article 15 hereof.

ARTICLE 28. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of May 1, 1971, 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.

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 their officers or representatives thereunto duly authorized and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

General Electric Company

By .....
General Manager, Locomotive Products Department

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(*d*) Any proceedings shall be commenced by or against the Company for any relief which includes, or might result in, any modification of the obligations of the Company hereunder, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but only so long as such stay shall continue in force or such ineffectiveness shall continue) and all the obligations of the Company under this Agreement shall not have been duly assumed in writing pursuant to a court order or decree by a trustee or trustees or receiver or receivers appointed for the Company or for its property in connection with any such proceedings, or otherwise given the same status as obligations assumed by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(*d*) The Company shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an Event of Default the Vendor may, upon written notice to the Company and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, declare the entire indebtedness in respect of the unpaid

balance of the Purchase Price of the Equipment (including without limitation thereto the unpaid balance of the Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid) and all other amounts payable by the Company under this Agreement and not theretofore paid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the Purchase Price of the Equipment (including such balance of the Conditional Sale Indebtedness, together with the interest thereon) and all such other amounts not theretofore paid shall bear interest from the date of such declaration at a rate of 8% per annum, to the extent legally enforceable, and the Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness, payable as aforesaid, in respect of the aggregate Purchase Price of the Equipment, and to collect such judgment out of any property of the Company wherever situated.

The Vendor may at its discretion waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Company in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such Event of Default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Company that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

Article 18. *Remedies.* If an Event of Default shall have occurred and be continuing as hereinabove provided, then at any time after the entire indebtedness in respect of the aggregate Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such Event of Default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory requirement of law applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate pos-

session of the Equipment, or any unit thereof, without liability to return to the Company any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 18 expressly provided, and may remove the same from possession and use of the Company or any other person and for such purpose may enter upon the premises of the Company or other premises where the Equipment may be located and may use and employ, in connection with such removal, any supplies, services and aids and any available trackage and other facilities or means of the Company, with or without process of law.

In case the Vendor shall rightfully demand possession of the Equipment pursuant to of this Agreement and shall reasonably designate a point or points for the delivery of the Equipment to the Vendor, the Company shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved, to such point or points as shall be designated by the Vendor and shall there cause the Equipment to be delivered to the Vendor; and, at the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Company until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Company. This Agreement to deliver the Equipment, as hereinbefore provided, is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Company requiring specific performance hereof. The Company hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

If an Event of Default shall have occurred and be continuing, as hereinbefore provided, then at any time thereafter during the continuance of such Event of Default and

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF NEBRASKA
COUNTY OF DOUGLAS ss.:

On this 17th day of August, 1971, before me personally appeared J. C. KENEFICK, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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.

R. E. Holmberg
Notary Public

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August, 1971, before me personally appeared W. S. Cook, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Villa)
Notary Public

ELIZABETH L. GALPINE (VILLA)
Notary Public, State of New York
No. 30-6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971, Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971 Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 21. *Recording.* The Company will cause this Agreement and any supplements hereto and any assignment hereof (a counterpart of the first such assignment being attached hereto) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and otherwise as may be required by law or reasonably requested by the Vendor, from time to time, for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and the Company will promptly furnish to the Vendor certificates or other evidences of such filing and recording, and an opinion or opinions of counsel for the Company with respect thereto, satisfactory to the Vendor.

ARTICLE 22. *Payment of Expenses.* The Company will pay all reasonable costs and expenses, except the counsel fees of the Manufacturers, incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related thereto, including fees and expenses of counsel for, and including stamp and other taxes, if any, of, the first assignee of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent) and any party or parties acquiring interests in such first assignment, and in connection with the transfer by any party or parties of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 23. *Notice.* Any notice to or demand upon the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage

prepaid, to the Company at 345 Park Avenue, New York, New York 10022 or at such other address as may have been furnished in writing to the Vendor by the Company. Any notice to or demand upon the Manufacturers pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to General Electric at 2901 East Lake Road, Erie, Pennsylvania, to Gunderson, Inc. at 4700 Northwest Front Avenue, Portland, Oregon 97208, to International Car, at 835 Englewood Avenue, Buffalo, New York, to Motor Freight, at 1416 Dodge Street, Omaha, Nebraska, to Pacific Car at 1400 North Fourth Street, Renton, Washington 98005, and to The Darby Products of Steel Plate Corporation, at First and Walker, Kansas City, Kansas or at such other address as may have been furnished in writing to the Company by any such Manufacturer. Unless otherwise herein provided, any notice to or demand upon any assignee of the Vendor or of the Company pursuant hereto shall be deemed to be properly given or made if delivered or mailed, first class postage prepaid, to such assignee at such address as may have been furnished in writing to the Company or the Vendor, as the case may be, by such assignee. An affidavit with respect to such mailing of any notice or demand by the person mailing the same shall be deemed to be conclusive evidence of the giving of such notice or the making of such demand.

ARTICLE 24. *Law Governing.* The terms of this Agreement and the 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 rights conferred by Section 20c of the Interstate Commerce Act and to the recording provisions of any other statute pursuant to which this Assignment may be recorded.

ARTICLE 25. *Article Headings.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

ARTICLE 26. *Effect and Modification of Agreement.* No variation of this Agreement and no waiver of any of its pro-

visions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company. This Agreement, including Schedule A attached hereto, exclusively and completely states the rights of the Vendor and the Company with respect to the Equipment and amends and supersedes all other agreements, oral or written, with respect to the Equipment including the Lease Agreement, dated as of May 1, 1971 between Pacific Car and the Company but excepting the Purchase Agreement, dated as of July 1, 1971 between Motor Freight and the Company.

ARTICLE 27. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder each Manufacturer, and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor or assignors as regards any rights hereunder that are retained and excluded from any assignment; and the term "Manufacturer", whenever used in this Agreement, means both before and after any such assignment, the Manufacturer, and any successor or successors for the time being to its manufacturing properties and business.

The term "Company", whenever used in this Agreement, means Union Pacific Railroad Company and also any assignee of its rights under this Agreement pursuant to the first sentence of Article 15 hereof.

ARTICLE 28. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of May 1, 1971, 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.

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 their officers or representatives thereunto duly authorized and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

General Electric Company

By .....
General Manager, Locomotive Products Department

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Attest:

.....
ASSISTANT *Secretary*

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF NEBRASKA
COUNTY OF DOUGLAS ss.:

On this 17th day of August, 1971, before me personally appeared J. C. KENEFICK, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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.

R. E. Holmberg
Notary Public

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August, 1971, before me personally appeared W. S. Cook, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Villa)
Notary Public

ELIZABETH L. GALPINE (VILLA)
Notary Public, State of New York
No. 30-6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971, Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971 Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

SCHEDULE B

Manufacturer	*Warranty*
General Electric	To repair at the Manufacturer's plant or to deliver to the Company at its plant a new part to replace any part that may fail under normal service within two years after shipment from the Manufacturer's plant or before the unit of Equipment in which such part is located has been 250,000 miles in scheduled service, whichever event shall first occur, because of faulty work done by the Manufacturer or defective material in equipment manufactured by the Manufacturer.
Gunderson Motor Freight	To repair or to deliver to the Company at its plant a new part to replace the defective part or to pay the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchanged Traffic, any part of any unit that may fail under normal service within two years after shipment from the Manufacturer's plant because of inadequate design, faulty work done, or defective material made by the Manufacturer.
International Car Darby	To repair at the Manufacturer's plant or to deliver to the Company at the Manufacturer's plant, a new part to replace any part of any unit that may fail under normal service within one year after shipment from the Manufacturer's plant because of faulty work done or defective material made by the Manufacturer.
Pacific Car	To repair the defect at the Manufacturer's plant or to replace the defective part or to pay the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchanged Traffic, any part of any unit that may fail under normal service within two years after delivery of such unit to the Company.

AGREEMENT AND ASSIGNMENT dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally the Manufacturer) and The Chase Manhattan Bank (National Association), a national banking association with its business address at 1 Chase Manhattan Plaza, New York, New York 10015, acting as Agent under an Agreement dated as of May 1, 1971 (hereinafter called the Finance Agreement) and said banking corporation, so acting being hereinafter called the Assignee.

Whereas, the Manufacturers and Union Pacific Railroad Company, a corporation duly organized and existing under the laws of the State of Utah, with an office in New York, New York (hereinafter called the Company), have entered into a Conditional Sale Agreement, dated as of May 1, 1971 (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Manufacturers and the purchase by the Company of the railroad equipment described in Schedule A to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

Now, Therefore, This Agreement Witnesseth: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Manufacturers, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

Section 1. Each Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(*a*) All of its right, title and interest in and to the Equipment and each unit thereof when and as severally

delivered and accepted under the Conditional Sale Agreement, and upon payment by the Assignee to the Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(*b*) All of its right, title and interest in and to the Conditional Sale Agreement in respect of the Equipment (except the rights to construct or cause to be constructed and to deliver the Equipment and the rights to receive the payments specified in subparagraphs (*a*) and (*b*) of the third paragraph of Article 3 thereof and in the final paragraph of Article 15 thereof) and the right to reimbursement for taxes as provided in Article 4 of the Conditional Sale Agreement, and in and to any and all amounts which may be or become due or owing by the Company to the Manufacturer under the Conditional Sale Agreement on account of its indebtedness in respect of the aggregate Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Company under the Conditional Sale Agreement, other than those hereinabove excluded; and

(*c*) All of the Manufacturer's rights (except as herein limited), powers, privileges and remedies under the Conditional Sale Agreement

(without any recourse, however, against the Manufacturer for or on account of the failure of the Company to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); *provided, however,* that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Manufacturer to construct or cause to be constructed and to deliver the Equipment in accordance with the Conditional Sale Agreement or in respect of its warranties and indemnities contained in Articles 13 and 14 of the Conditional Sale Agreement or relieve the Company from its obligations to the Manufacturer under Articles 1, 2, 3, 4, 13, 14 and 15 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent

assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Company in respect of the Equipment shall be and remain enforceable by the Company, its successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer, 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 compliance by the Company with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

Each Manufacturer agrees that any amount payable to it by the Company, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any of the units of Equipment.

SECTION 2. Each Manufacturer covenants and agrees that it will cause the Equipment to be sold by such Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Company in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by it. Each Manufacturer further covenants and agrees that it will warrant to the Assignee and the Company that at the time of delivery and acceptance of each unit of the Equipment sold by it, it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and as to units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, be-

tween Pacific Car and the Company and the Lease as of the same date between the Company and Pacific Fruit Express Company; and the Manufacturer further covenants and agrees that it will defend such title against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Manufacturer under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Company thereunder. The Manufacturer will not deliver any of the Equipment to the Company until the filings and recordations referred to in Article 21 of the Conditional Sale Agreement have been effected, as to which fact Manufacturer and its counsel may rely upon advice of counsel for the Company.

Section 3. Each Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any amount which may be due or owing by the Company on account of its indebtedness in respect of the aggregate Purchase Price of the Equipment and interest thereon, and any other sums becoming due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, it will save, indemnify and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever of the Company arising out of a breach by the Manufacturer of any obligation in respect of the Equipment, or the manufacture, construction, delivery or warranty thereof, or under Articles 13 and 14 of the Conditional Sale Agreement, or by reason of any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Company by the Manufacturer. Any and all such obligations shall be and remain enforceable by the Company against and only against the Manufacturer and shall not be enforceable against the Assignee or any party or parties in whom title to the Equipment, or any unit thereof, or any of the rights of the Manufacturer under the Conditional Sale Agreement, shall vest by reason

of this assignment or of successive assignments or transfers. The Manufacturer shall have no liability under the foregoing provisions of this Section 3 unless (a) the Assignee, in any such suit, proceeding or action by the Assignee, hereinabove described, promptly moves or takes other appropriate action on the basis of Article 15 of the Conditional Sale Agreement, to strike any such defense, set-off, counterclaim or recoupment asserted by the Company and the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, set-off, counterclaim or recoupment as a triable issue in such suit, proceeding or action, and (b) upon any such denial and acceptance, the Assignee promptly notifies the Manufacturer of any such defense, set-off, counterclaim or recoupment asserted by the Company and the Manufacturer is given the right by the Assignee to compromise, settle or defend against, at its expense, such defense, set-off, counterclaim or recoupment. The Manufacturer will indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction of the Equipment, or any unit thereof, of any design, system, process, formula, article or material which infringes, or is claimed to infringe, on any patent or other right, except for any design, system, process or formula specified by the Company and not developed or purported to be developed by the Manufacturer or any article or material specified by the Company and not manufactured by the Manufacturer.

SECTION 4. Each Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, at the time of delivery thereof to the Company, in letters not less than one inch in height, the following legend:

"OWNED BY A SECURED PARTY UNDER A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20C".

of the Purchase Price of the Equipment to be settled for on such Closing Date, the Company shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under subparagraph (c) of the third paragraph of Article 3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Company. By any such payment, however, the Company shall not acquire any rights under this Assignment.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement shall constitute an event of default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Company thereunder. 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. In compliance with Article 23 of the Conditional Sale Agreement the address of the Assignee for purposes of notices and payments is The Chase Manhattan Bank, (N.A.), Corporate Trust Administration, 1 Chase Manhattan Plaza, New York, New York 10015 or such other address as the Assignee shall have furnished in writing to the Company.

SECTION 8. Each Manufacturer hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed

and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Company, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and the Company in accordance with its terms and that it is now in force without amendment thereto; and

(*b*) represents and warrants to the Assignee, its successors and assigns, that as of its execution and delivery of this Assignment all of its right, title and interest in and to the Conditional Sale Agreement was free of all claims, liens, security interests and other encumbrances whatsoever; and

(*c*) covenants and 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.

SECTION 9. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Company. Although this Assignment is dated for convenience as of May 1, 1971, 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 terms of this Assignment and the 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 rights conferred by Section 20c of the

Interstate Commerce Act, and to the recording provisions of any other statutes pursuant to which this Agreement may be recorded.

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 officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

General Electric Company

By .....
Vice President

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

of the Purchase Price of the Equipment to be settled for on such Closing Date, the Company shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under subparagraph (c) of the third paragraph of Article 3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Company. By any such payment, however, the Company shall not acquire any rights under this Assignment.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement shall constitute an event of default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Company thereunder. 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. In compliance with Article 23 of the Conditional Sale Agreement the address of the Assignee for purposes of notices and payments is The Chase Manhattan Bank, (N.A.), Corporate Trust Administration, 1 Chase Manhattan Plaza, New York, New York 10015 or such other address as the Assignee shall have furnished in writing to the Company.

SECTION 8. Each Manufacturer hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed

and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Company, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and the Company in accordance with its terms and that it is now in force without amendment thereto; and

(*b*) represents and warrants to the Assignee, its successors and assigns, that as of its execution and delivery of this Assignment all of its right, title and interest in and to the Conditional Sale Agreement was free of all claims, liens, security interests and other encumbrances whatsoever; and

(*c*) covenants and 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.

SECTION 9. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Company. Although this Assignment is dated for convenience as of May 1, 1971, 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 terms of this Assignment and the 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 rights conferred by Section 20c of the

Interstate Commerce Act, and to the recording provisions of any other statutes pursuant to which this Agreement may be recorded.

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 officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

General Electric Company

By .....
Vice President

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF NEBRASKA
COUNTY OF DOUGLAS ss.:

On this 17th day of August, 1971, before me personally appeared J. C. KENEFICK, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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.

R. E. Holmberg
Notary Public

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

.....
Notary Public

STATE OF NEW YORK
COUNTY OF NEW YORK SS.:

On this 12th day of AUG 1971, before me personally appeared J. L. HOWARD, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK, (N.A.), 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.

Loretta Jedlicka
Notary Public

LORETTA JEDLICKA
Notary Public, State of New York
No. 31-4500161
Qualified in New York County
Commission Expires March 30, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is hereby acknowledged.

UNION PACIFIC RAILROAD COMPANY

By .....

Vice President

Dated as of May 1, 1971.

CONDITIONAL SALE AGREEMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

UNION PACIFIC RAILROAD COMPANY

AGREEMENT AND ASSIGNMENT

Dated as of May 1, 1971

BETWEEN

GENERAL ELECTRIC COMPANY

GUNDERSON, INC.

INTERNATIONAL CAR COMPANY
(Division of International Ramco, Inc.)

PACIFIC CAR AND FOUNDRY COMPANY

UNION PACIFIC MOTOR FREIGHT COMPANY

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

AND

THE CHASE MANHATTAN BANK, (N.A.), as Agent

CONDITIONAL SALE AGREEMENT, dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally, the Manufacturer, or collectively or severally called the Vendor as the context may require, all as more particularly set forth in Article 27 hereof) and Union Pacific Railroad Company, a Utah corporation (hereinafter called the Company).

Whereas, the Manufacturers have agreed to construct or cause to be constructed and to sell and deliver to the Company and the Company has agreed to purchase, the new and rebuilt railroad equipment described in Schedule A attached hereto (hereinafter called the Equipment);

Now, Therefore, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

Article 1. *Construction and Sale.* Pursuant to this Agreement, each Manufacturer shall construct or cause to be constructed and shall sell and deliver to the Company and the Company shall, subject to the provisions of this Agreement, purchase from such Manufacturer and accept delivery of and pay for (as hereinafter provided) the units of the Equipment which are described in Schedule A hereto to be constructed by or for, and sold and delivered, by the Manufacturer, each unit of which will be constructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof

as may have been agreed upon in writing by the Manufacturer and the Company (which specifications and modifications, if any, are hereinafter called the Specifications). Each Manufacturer agrees that the design, quality, and component parts of the Equipment will conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new and rebuilt equipment and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to new and rebuilt railroad equipment of the character of such units.

Article 2. *Delivery.* Each Manufacturer will deliver its units of the Equipment to the Company, freight charges prepaid, at the point specified in, and in accordance with, the delivery schedule set forth in Schedule A hereto, or at such other point and time as the Manufacturer and the Company may mutually agree upon.

The Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond its reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 2 and except as hereinbelow provided, any Equipment not delivered and accepted under this Agreement on or before November 30, 1971 shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement unless the Company, with the written consent of the Manufacturer of such units and its assignee or successor assignee, in the event of an assignment or successive assignments of this Agreement as contemplated in Article 15 hereof, shall elect to include such units of Equipment within this Agreement and shall, prior to November 30, 1971, actually deliver to the Manufacturer in writing, notice

of such election and furnish the Manufacturer with a copy of such written consent. In the event of any such exclusion, the Company and the Manufacturer shall execute an agreement or agreements supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom in such form as may be necessary for the proper filing and recording thereof in all offices where this Agreement shall at the time be filed or recorded. If the Manufacturer's failure to deliver, on or before November 30, 1971, all the Equipment, resulted from one or more of the causes referred to in the preceding paragraph, the Company shall nevertheless be obligated to accept such excluded equipment, and the Company and the Manufacturer shall execute a separate agreement or agreements providing for the purchase of such excluded Equipment by the Company, on the terms herein specified, payment to be made either in cash on delivery of such Equipment or, in the case the Company shall arrange therefor, by means of a conditional sale, equipment trust, or such other appropriate method of financing the purchase, as the Company shall determine and as shall be reasonably acceptable to the Manufacturer.

From time to time upon the completion of the construction of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector or other authorized representative of the Company for inspection at the place designated for delivery of such unit or units, and if such unit or units conform to the Specifications, requirements and standards applicable thereto, and if delivery is accepted, such inspector or authorized representative of the Company shall execute and deliver to the Manufacturer, in such number of counterparts as may reasonably be requested, a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been delivered to the Company hereunder in accordance with this Agreement, have been inspected and accepted by him on behalf of the Company, conform to the specifications applicable thereto, to all applicable Interstate Commerce Commission requirements and Specifications and to all standards recommended by the Association of American Railroads and are marked in accordance with Article 6

hereof. Each Certificate of Acceptance shall be conclusive evidence that the units of Equipment covered thereby have been delivered to the Company and conform to the Specifications and are acceptable to the Company in all details; *provided, however,* that the Manufacturer shall not be relieved of its warranties contained in Articles 13 and 14 hereof. The Company shall designate an inspector or representative who shall be reasonably available for presentation of completed units and who shall upon presentation promptly inspect and accept such units as conform with the Specifications. Delivery of any unit of Equipment under the Lease Agreement, dated as of May 1, 1971, between Pacific Car and the Company shall constitute delivery of such unit under the provisions of this Article 2 and the Certificate of Acceptance delivered pursuant to Section 1 of said Lease shall be conclusive evidence that the units described therein have been delivered to and accepted by the Company hereunder on the date of such certificate, provided no such certificate shall be dated prior to June 1, 1971.

The Manufacturer shall bear the risk of loss of each unit of Equipment or damage thereto until delivery to and acceptance by the Company. Upon delivery and acceptance by the Company of a Certificate of Acceptance with respect to any unit of Equipment, the Company shall bear the risk of loss of or damage to such unit.

ARTICLE 3. *Purchase Price and Payment.* The base price or prices per unit of the Equipment are set forth in Schedule A hereto. The base price or prices include estimated freight charges from the respective Manufacturer's plant to the point of delivery and taxes, if any, and shall be subject to increase or decrease, to the extent contemplated in the purchase order referred to in Schedule A hereof, or, as may be otherwise mutually agreed upon by the Manufacturer and the Company. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased.

For the purpose of making settlement, all the Equipment shall be divided into groups (each such group being hereinafter called a Group), each Group to consist of all units of

the Equipment, delivered to and accepted by the Company in the calendar month preceding (or in respect of the final Group, preceding or on, as the case may be) the Closing Date (fixed as hereinafter provided) in respect of such Group.

Subject to the provisions of this Article 3, the Company hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment to be constructed and sold by such Vendor, as follows:

(*a*) On the Closing Date, with respect to each Group, an amount equal to (i) 20% of the aggregate Purchase Price of all units of Equipment in such Group, as stated in the invoice or invoices therefor (hereinafter called the Group Invoiced Purchase Price), plus (ii) the amount if any, by which 80% of such Group Invoiced Purchase Price, when added to 80% of the sum of the Group Invoiced Purchase Prices of all other units of the Equipment for which settlement has theretofore been, and is then being, made exceeds the sum of (x) $21,550,000 plus (y) any amount previously paid under clause (ii) of this subparagraph (a);

(*b*) On the next succeeding Closing Date following receipt from each Manufacturer of its final certificate (hereinafter called the Final Certificate) of the aggregate Purchase Price for all of its units in all Groups settled for as provided herein, the amount, if any, by which the final aggregate Purchase Price of all such units, as stated therein (hereinafter called the Final Invoiced Purchase Price), shall exceed the sum of the Group Invoiced Purchase Prices of all such units; and

(*c*) In five substantially equal consecutive annual instalments, as hereinafter provided, an amount equal to 80% of the sum of the Group Invoiced Purchase Prices of all units of the Equipment to be sold by such Vendor (hereinafter called the Conditional Sale Indebtedness) less the amounts paid or payable in respect thereof pursuant to clause (ii) of subparagraph (a) of this paragraph, *provided, however,* that, in case

the amount payable pursuant to this subparagraph (c) shall not, when divided by 5, result in an amount ending in an integral cent, the final instalment shall be appropriately adjusted.

If this Agreement shall be assigned by any Manufacturer, the obligations of the Company under subparagraphs (a) and (b) of the preceding paragraph of this Article 3 shall be unsecured obligations, and the Manufacturer shall not have any lien on, or claim against, any unit of the Equipment or any part thereof in respect of such obligations.

The first instalment of the Conditional Sale Indebtedness shall be payable on July 15, 1973 and subsequent instalments shall be payable annually thereafter on July 15 of each year, to and including July 15, 1977. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the respective Closing Dates, regardless of any postponement thereof pursuant to the provisions of any assignment of this Agreement, at the rate of 7.25% per annum and shall be payable, to the extent accrued, semi-annually on January 15 and July 15 in each year, commencing January 15, 1972.

The Final Certificate and final invoice shall be delivered by each Manufacturer on or before December 15, 1971, and, if not so delivered, the Final Invoiced Purchase Price of the units of the Equipment shall be, for all purposes of this Agreement, the sum of the Group Invoiced Purchase Prices of such units. The Manufacturer agrees that the Group Invoiced Purchase Prices shall be so fixed that they will not in the aggregate exceed the Final Invoiced Purchase Price.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date not prior to August 15, 1971, and not later than December 31, 1971, and not more than 15 business days following presentation to the Company of the Certificates of Acceptance and the invoice or invoices for such Group, as shall be fixed by the Company by written notice delivered to the Vendor at least 7 business days prior to the Closing Date designated therein. The term

of the article or material originally specified, or accept the original article or material with such warranty as may be secured.

Each Manufacturer agrees with the Company that the acceptance of any unit by the Company under Article 2 hereof shall not be deemed a waiver by the Company of any of its rights under this paragraph. This warranty shall continue in full force and effect for the period stated notwithstanding the full payment of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the transfer of title to the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

ARTICLE 14. *Patent Indemnities.* Except in cases of designs, systems, processes or formulae utilized by a Manufacturer in or about the construction of units of Equipment as a result of specification by the Company, and articles and materials specified by the Company and not manufactured by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold the Company harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Company, or the user of any of the Equipment, because of the use in or about construction of the Equipment or any unit thereof, of any design, system, process, or formula, article or material infringing or claimed to infringe on any patent or other right. The Company likewise will indemnify, protect and hold the Vendor and the Manufacturer harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor and/or the Manufacturer because of the use in or about the construction of any unit of Equipment, of any such design, system, process, or formula specified by the Company and not developed or purported to be developed by the Manufacturer or article or material specified by the Company and not manufactured by the Manufacturer, which infringes,

balance of the Purchase Price of the Equipment (including without limitation thereto the unpaid balance of the Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid) and all other amounts payable by the Company under this Agreement and not theretofore paid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the Purchase Price of the Equipment (including such balance of the Conditional Sale Indebtedness, together with the interest thereon) and all such other amounts not theretofore paid shall bear interest from the date of such declaration at a rate of 8% per annum, to the extent legally enforceable, and the Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness, payable as aforesaid, in respect of the aggregate Purchase Price of the Equipment, and to collect such judgment out of any property of the Company wherever situated.

The Vendor may at its discretion waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Company in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such Event of Default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Company that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

Article 18. *Remedies.* If an Event of Default shall have occurred and be continuing as hereinabove provided, then at any time after the entire indebtedness in respect of the aggregate Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such Event of Default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory requirement of law applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate pos-

session of the Equipment, or any unit thereof, without liability to return to the Company any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 18 expressly provided, and may remove the same from possession and use of the Company or any other person and for such purpose may enter upon the premises of the Company or other premises where the Equipment may be located and may use and employ, in connection with such removal, any supplies, services and aids and any available trackage and other facilities or means of the Company, with or without process of law.

In case the Vendor shall rightfully demand possession of the Equipment pursuant to of this Agreement and shall reasonably designate a point or points for the delivery of the Equipment to the Vendor, the Company shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved, to such point or points as shall be designated by the Vendor and shall there cause the Equipment to be delivered to the Vendor; and, at the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Company until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Company. This Agreement to deliver the Equipment, as hereinbefore provided, is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Company requiring specific performance hereof. The Company hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

If an Event of Default shall have occurred and be continuing, as hereinbefore provided, then at any time thereafter during the continuance of such Event of Default and

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Attest:

.....
ASSISTANT *Secretary*

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

of the article or material originally specified, or accept the original article or material with such warranty as may be secured.

Each Manufacturer agrees with the Company that the acceptance of any unit by the Company under Article 2 hereof shall not be deemed a waiver by the Company of any of its rights under this paragraph. This warranty shall continue in full force and effect for the period stated notwithstanding the full payment of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the transfer of title to the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

ARTICLE 14. *Patent Indemnities.* Except in cases of designs, systems, processes or formulae utilized by a Manufacturer in or about the construction of units of Equipment as a result of specification by the Company, and articles and materials specified by the Company and not manufactured by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold the Company harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Company, or the user of any of the Equipment, because of the use in or about construction of the Equipment or any unit thereof, of any design, system, process, or formula, article or material infringing or claimed to infringe on any patent or other right. The Company likewise will indemnify, protect and hold the Vendor and the Manufacturer harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor and/or the Manufacturer because of the use in or about the construction of any unit of Equipment, of any such design, system, process, or formula specified by the Company and not developed or purported to be developed by the Manufacturer or article or material specified by the Company and not manufactured by the Manufacturer, which infringes,

balance of the Purchase Price of the Equipment (including without limitation thereto the unpaid balance of the Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid) and all other amounts payable by the Company under this Agreement and not theretofore paid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the Purchase Price of the Equipment (including such balance of the Conditional Sale Indebtedness, together with the interest thereon) and all such other amounts not theretofore paid shall bear interest from the date of such declaration at a rate of 8% per annum, to the extent legally enforceable, and the Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness, payable as aforesaid, in respect of the aggregate Purchase Price of the Equipment, and to collect such judgment out of any property of the Company wherever situated.

The Vendor may at its discretion waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Company in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such Event of Default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Company that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

Article 18. *Remedies.* If an Event of Default shall have occurred and be continuing as hereinabove provided, then at any time after the entire indebtedness in respect of the aggregate Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such Event of Default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory requirement of law applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate pos-

session of the Equipment, or any unit thereof, without liability to return to the Company any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 18 expressly provided, and may remove the same from possession and use of the Company or any other person and for such purpose may enter upon the premises of the Company or other premises where the Equipment may be located and may use and employ, in connection with such removal, any supplies, services and aids and any available trackage and other facilities or means of the Company, with or without process of law.

In case the Vendor shall rightfully demand possession of the Equipment pursuant to of this Agreement and shall reasonably designate a point or points for the delivery of the Equipment to the Vendor, the Company shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved, to such point or points as shall be designated by the Vendor and shall there cause the Equipment to be delivered to the Vendor; and, at the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Company until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Company. This Agreement to deliver the Equipment, as hereinbefore provided, is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Company requiring specific performance hereof. The Company hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

If an Event of Default shall have occurred and be continuing, as hereinbefore provided, then at any time thereafter during the continuance of such Event of Default and

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Attest:

.....
ASSISTANT *Secretary*

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

of the article or material originally specified, or accept the original article or material with such warranty as may be secured.

Each Manufacturer agrees with the Company that the acceptance of any unit by the Company under Article 2 hereof shall not be deemed a waiver by the Company of any of its rights under this paragraph. This warranty shall continue in full force and effect for the period stated notwithstanding the full payment of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the transfer of title to the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

ARTICLE 14. *Patent Indemnities.* Except in cases of designs, systems, processes or formulae utilized by a Manufacturer in or about the construction of units of Equipment as a result of specification by the Company, and articles and materials specified by the Company and not manufactured by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold the Company harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Company, or the user of any of the Equipment, because of the use in or about construction of the Equipment or any unit thereof, of any design, system, process, or formula, article or material infringing or claimed to infringe on any patent or other right. The Company likewise will indemnify, protect and hold the Vendor and the Manufacturer harmless from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor and/or the Manufacturer because of the use in or about the construction of any unit of Equipment, of any such design, system, process, or formula specified by the Company and not developed or purported to be developed by the Manufacturer or article or material specified by the Company and not manufactured by the Manufacturer, which infringes,

balance of the Purchase Price of the Equipment (including without limitation thereto the unpaid balance of the Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid) and all other amounts payable by the Company under this Agreement and not theretofore paid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the Purchase Price of the Equipment (including such balance of the Conditional Sale Indebtedness, together with the interest thereon) and all such other amounts not theretofore paid shall bear interest from the date of such declaration at a rate of 8% per annum, to the extent legally enforceable, and the Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness, payable as aforesaid, in respect of the aggregate Purchase Price of the Equipment, and to collect such judgment out of any property of the Company wherever situated.

The Vendor may at its discretion waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Company in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such Event of Default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Company that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

Article 18. *Remedies.* If an Event of Default shall have occurred and be continuing as hereinabove provided, then at any time after the entire indebtedness in respect of the aggregate Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such Event of Default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory requirement of law applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate pos-

session of the Equipment, or any unit thereof, without liability to return to the Company any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 18 expressly provided, and may remove the same from possession and use of the Company or any other person and for such purpose may enter upon the premises of the Company or other premises where the Equipment may be located and may use and employ, in connection with such removal, any supplies, services and aids and any available trackage and other facilities or means of the Company, with or without process of law.

In case the Vendor shall rightfully demand possession of the Equipment pursuant to of this Agreement and shall reasonably designate a point or points for the delivery of the Equipment to the Vendor, the Company shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved, to such point or points as shall be designated by the Vendor and shall there cause the Equipment to be delivered to the Vendor; and, at the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Company until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Company. This Agreement to deliver the Equipment, as hereinbefore provided, is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Company requiring specific performance hereof. The Company hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

If an Event of Default shall have occurred and be continuing, as hereinbefore provided, then at any time thereafter during the continuance of such Event of Default and

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Attest:

.....
ASSISTANT *Secretary*

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF Kansas
COUNTY OF Wyandotte ss.:

On this 6th day of August , before me personally appeared W. J. Haynes to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

E. J. Thoma
.....
Notary Public

My Commissi[illegible] 3, 1972

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared W. J. Cook, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Della)
Notary Public

ELIZABETH L. GALPINE (DELLA)
Notary Public, State of New York
No. 30-6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

balance of the Purchase Price of the Equipment (including without limitation thereto the unpaid balance of the Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid) and all other amounts payable by the Company under this Agreement and not theretofore paid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the Purchase Price of the Equipment (including such balance of the Conditional Sale Indebtedness, together with the interest thereon) and all such other amounts not theretofore paid shall bear interest from the date of such declaration at a rate of 8% per annum, to the extent legally enforceable, and the Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness, payable as aforesaid, in respect of the aggregate Purchase Price of the Equipment, and to collect such judgment out of any property of the Company wherever situated.

The Vendor may at its discretion waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Company in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such Event of Default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Company that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

Article 18. *Remedies.* If an Event of Default shall have occurred and be continuing as hereinabove provided, then at any time after the entire indebtedness in respect of the aggregate Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such Event of Default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory requirement of law applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate pos-

session of the Equipment, or any unit thereof, without liability to return to the Company any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 18 expressly provided, and may remove the same from possession and use of the Company or any other person and for such purpose may enter upon the premises of the Company or other premises where the Equipment may be located and may use and employ, in connection with such removal, any supplies, services and aids and any available trackage and other facilities or means of the Company, with or without process of law.

In case the Vendor shall rightfully demand possession of the Equipment pursuant to of this Agreement and shall reasonably designate a point or points for the delivery of the Equipment to the Vendor, the Company shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved, to such point or points as shall be designated by the Vendor and shall there cause the Equipment to be delivered to the Vendor; and, at the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Company until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Company. This Agreement to deliver the Equipment, as hereinbefore provided, is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Company requiring specific performance hereof. The Company hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

If an Event of Default shall have occurred and be continuing, as hereinbefore provided, then at any time thereafter during the continuance of such Event of Default and

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Attest:

.....
ASSISTANT *Secretary*

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF Kansas
COUNTY OF Wyandotte ss.:

On this 6th day of August , before me personally appeared W. J. Haynes to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

E. J. Thoma
.....
Notary Public

My Commissi[illegible] 3, 1972

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared W. J. Cook, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Della)
Notary Public

ELIZABETH L. GALPINE (DELLA)
Notary Public, State of New York
No. 30-6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971, Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971, Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

visions or conditions shall be valid unless in writing and duly executed on behalf of the Vendor and the Company. This Agreement, including Schedule A attached hereto, exclusively and completely states the rights of the Vendor and the Company with respect to the Equipment and amends and supersedes all other agreements, oral or written, with respect to the Equipment including the Lease Agreement, dated as of May 1, 1971 between Pacific Car and the Company but excepting the Purchase Agreement, dated as of July 1, 1971 between Motor Freight and the Company.

ARTICLE 27. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder each Manufacturer, and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor or assignors as regards any rights hereunder that are retained and excluded from any assignment; and the term "Manufacturer", whenever used in this Agreement, means both before and after any such assignment, the Manufacturer, and any successor or successors for the time being to its manufacturing properties and business.

The term "Company", whenever used in this Agreement, means Union Pacific Railroad Company and also any assignee of its rights under this Agreement pursuant to the first sentence of Article 15 hereof.

ARTICLE 28. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of May 1, 1971, 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.

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 their officers or representatives thereunto duly authorized and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

General Electric Company

By .....
General Manager, Locomotive Products Department

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

UNION PACIFIC RAILROAD COMPANY

By .....
Vice President

Attest:

.....
ASSISTANT *Secretary*

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the General Manager, Locomotive Products Department 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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.

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Notary Public

STATE OF NEW YORK
COUNTY OF ERIE ss.:

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.....
Notary Public

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF Kansas
COUNTY OF Wyandotte ss.:

On this 6th day of August , before me personally appeared W. J. Haynes to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

E. J. Thoma
.....
Notary Public

My Commissi[illegible] 3, 1972

STATE OF New York
COUNTY OF New York SS.:

On this 11th day of August 1971, before me personally appeared W. J. Cook, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC 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.

Elizabeth L. Galpine (Della)
Notary Public

ELIZABETH L. GALPINE (DELLA)
Notary Public, State of New York
No. 30-6451300
Qualified in Nassau County
Certificate Filed in N.Y. Co. Clk's Office
Commission Expires March 30, 1972

SCHEDULE A

Manufacturer	Type	Specifications	Quantity	Unit Numbers	Unit Base Price	Aggregate Base Price	Time and Place of Delivery
General Electric	U-50-C 5000 HP Diesel Electric Locomotive	Company's P.O. No. 6245-6, dated December 24, 1968, accepted January 13, 1969, as amended November 13, 1969, April 11, 1969, March 1, 1970, and April 1, 1971	3	UP 5037-5039, both inclusive	$461,622	$1,384,866	September-October 1971, Erie, Pennsylvania
Gunderson	100-ton, 1600 cu. ft. capacity Gondola Ore Car Class G-100-13	Company's P.O. No. 6280-10, dated May 1, 1971, accepted May 17, 1971	55	UP 27500-27554, both inclusive	16,500	907,500	July-September, 1971 Portland, Oregon
International Car	All steel bay window Caboose	Company's P.O. No. 6283-12, dated May 20, 1971 and accepted June 1, 1971	10	RI 17202-17211, both inclusive	27,500	275,000	October, 1971, Blue Island, Illinois
Pacific Car	130,000 pound minimal capacity steel-sheathed Refrigerator Cars with Mechanical Refrigeration Systems and Load Protection Devices, Class R-70-25	Pacific Fruit Express Company Specification 103, dated September 14, 1970	600	PFE 460101 to 460700, both inclusive	33,000	19,800,000	May-July, 1971, Renton, Washington
Darby	100-ton, 3600 cu. ft. capacity Open Top Hopper Car	Company's P.O. No. 6282-25, dated May 10, 1971 and accepted May 20, 1971	100	RI 102000-102099, both inclusive	15,985	1,598,500	August-September, 1971 Manufacturer's Plant, Kansas City, Kansas
Motor Freight	70-ton, 50′ 6″ Box Car, Class B-70-9 (Rebuilt)	Manufacturer's P.O. No. 6292, dated July 1, 1971 and accepted July 26, 1971; Specification No. 51-U	33	UP 509270-509302, both inclusive	18,850	622,500	August-September, 1971 Albina, Oregon
	70-ton, 50′ 6″ Box Car, Class BF-70-8	Manufacturer's P.O. No. 6292, dated July 1, 1971, and accepted July 26, 1971; Specification No. 47-L	100	UP 169800-169899	23,500	2,350,000	July-September, 1971 Omaha, Nebraska
					Total	$26,937,916	

SCHEDULE B

Manufacturer	*Warranty*
General Electric	To repair at the Manufacturer's plant or to deliver to the Company at its plant a new part to replace any part that may fail under normal service within two years after shipment from the Manufacturer's plant or before the unit of Equipment in which such part is located has been 250,000 miles in scheduled service, whichever event shall first occur, because of faulty work done by the Manufacturer or defective material in equipment manufactured by the Manufacturer.
Gunderson Motor Freight	To repair or to deliver to the Company at its plant a new part to replace the defective part or to pay the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchanged Traffic, any part of any unit that may fail under normal service within two years after shipment from the Manufacturer's plant because of inadequate design, faulty work done, or defective material made by the Manufacturer.
International Car Darby	To repair at the Manufacturer's plant or to deliver to the Company at the Manufacturer's plant, a new part to replace any part of any unit that may fail under normal service within one year after shipment from the Manufacturer's plant because of faulty work done or defective material made by the Manufacturer.
Pacific Car	To repair the defect at the Manufacturer's plant or to replace the defective part or to pay the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchanged Traffic, any part of any unit that may fail under normal service within two years after delivery of such unit to the Company.

AGREEMENT AND ASSIGNMENT dated as of May 1, 1971 between General Electric Company, a New York corporation (hereinafter called General Electric), Gunderson, Inc., an Oregon corporation (hereinafter called Gunderson), International Car Company (Division of International Ramco, Inc.), an Illinois corporation (hereinafter called International Car), Pacific Car and Foundry Company, a Washington corporation (hereinafter called Pacific Car), Union Pacific Motor Freight Company, a Nebraska corporation (hereinafter called Motor Freight), The Darby Products of Steel Plate Corporation, a Kansas corporation (hereinafter called Darby) (the foregoing companies being hereinafter called collectively the Manufacturers or severally the Manufacturer) and The Chase Manhattan Bank (National Association), a national banking association with its business address at 1 Chase Manhattan Plaza, New York, New York 10015, acting as Agent under an Agreement dated as of May 1, 1971 (hereinafter called the Finance Agreement) and said banking corporation, so acting being hereinafter called the Assignee.

Whereas, the Manufacturers and Union Pacific Railroad Company, a corporation duly organized and existing under the laws of the State of Utah, with an office in New York, New York (hereinafter called the Company), have entered into a Conditional Sale Agreement, dated as of May 1, 1971 (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Manufacturers and the purchase by the Company of the railroad equipment described in Schedule A to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

Now, Therefore, This Agreement Witnesseth: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Manufacturers, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

Section 1. Each Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(*a*) All of its right, title and interest in and to the Equipment and each unit thereof when and as severally

delivered and accepted under the Conditional Sale Agreement, and upon payment by the Assignee to the Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(*b*) All of its right, title and interest in and to the Conditional Sale Agreement in respect of the Equipment (except the rights to construct or cause to be constructed and to deliver the Equipment and the rights to receive the payments specified in subparagraphs (*a*) and (*b*) of the third paragraph of Article 3 thereof and in the final paragraph of Article 15 thereof) and the right to reimbursement for taxes as provided in Article 4 of the Conditional Sale Agreement, and in and to any and all amounts which may be or become due or owing by the Company to the Manufacturer under the Conditional Sale Agreement on account of its indebtedness in respect of the aggregate Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Company under the Conditional Sale Agreement, other than those hereinabove excluded; and

(*c*) All of the Manufacturer's rights (except as herein limited), powers, privileges and remedies under the Conditional Sale Agreement

(without any recourse, however, against the Manufacturer for or on account of the failure of the Company to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); *provided, however,* that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Manufacturer to construct or cause to be constructed and to deliver the Equipment in accordance with the Conditional Sale Agreement or in respect of its warranties and indemnities contained in Articles 13 and 14 of the Conditional Sale Agreement or relieve the Company from its obligations to the Manufacturer under Articles 1, 2, 3, 4, 13, 14 and 15 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent

assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Company in respect of the Equipment shall be and remain enforceable by the Company, its successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer, 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 compliance by the Company with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

Each Manufacturer agrees that any amount payable to it by the Company, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any of the units of Equipment.

SECTION 2. Each Manufacturer covenants and agrees that it will cause the Equipment to be sold by such Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Company in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by it. Each Manufacturer further covenants and agrees that it will warrant to the Assignee and the Company that at the time of delivery and acceptance of each unit of the Equipment sold by it, it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and as to units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, be-

tween Pacific Car and the Company and the Lease as of the same date between the Company and Pacific Fruit Express Company; and the Manufacturer further covenants and agrees that it will defend such title against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Manufacturer under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Company thereunder. The Manufacturer will not deliver any of the Equipment to the Company until the filings and recordations referred to in Article 21 of the Conditional Sale Agreement have been effected, as to which fact Manufacturer and its counsel may rely upon advice of counsel for the Company.

SECTION 3. Each Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any amount which may be due or owing by the Company on account of its indebtedness in respect of the aggregate Purchase Price of the Equipment and interest thereon, and any other sums becoming due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, it will save, indemnify and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever of the Company arising out of a breach by the Manufacturer of any obligation in respect of the Equipment, or the manufacture, construction, delivery or warranty thereof, or under Articles 13 and 14 of the Conditional Sale Agreement, or by reason of any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Company by the Manufacturer. Any and all such obligations shall be and remain enforceable by the Company against and only against the Manufacturer and shall not be enforceable against the Assignee or any party or parties in whom title to the Equipment, or any unit thereof, or any of the rights of the Manufacturer under the Conditional Sale Agreement, shall vest by reason

poration, and has the power and authority to own its properties and to carry on its business as now conducted;

(*f*) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the rights, title and interests and powers, privileges and remedies of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Company in accordance with the provisions of the Conditional Sale Agreement, were free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and, as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company, and the Lease of the same date between the Company and Pacific Fruit Express Company;

(*g*) Unless payment of the amount payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, the receipt from the Manufacturer for such payment.

In giving the opinions specified in subparagraphs (*d*) (*e*) and (*f*) of the first paragraph of this Section 6, counsel may qualify any opinion, to the effect that any agreement is enforceable in accordance with its terms, by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion. In giving the opinion specified in said subparagraph (*d*), counsel may rely, as to the authorization, execution and delivery by each Manufacturer of the documents executed by such Manufacturer, and to title to the units of Equipment of such Manufacturer at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for such Manufacturer, and as to any matters governed by the law of any jurisdiction other than New York and the United States, on the opinion of counsel for such Manufacturer or the opinion of counsel for the Company as to such matters.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Company shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account

of the Purchase Price of the Equipment to be settled for on such Closing Date, the Company shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under subparagraph (c) of the third paragraph of Article 3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Company. By any such payment, however, the Company shall not acquire any rights under this Assignment.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement shall constitute an event of default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Company thereunder. 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. In compliance with Article 23 of the Conditional Sale Agreement the address of the Assignee for purposes of notices and payments is The Chase Manhattan Bank, (N.A.), Corporate Trust Administration, 1 Chase Manhattan Plaza, New York, New York 10015 or such other address as the Assignee shall have furnished in writing to the Company.

SECTION 8. Each Manufacturer hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed

and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Company, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and the Company in accordance with its terms and that it is now in force without amendment thereto; and

(*b*) represents and warrants to the Assignee, its successors and assigns, that as of its execution and delivery of this Assignment all of its right, title and interest in and to the Conditional Sale Agreement was free of all claims, liens, security interests and other encumbrances whatsoever; and

(*c*) covenants and 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.

SECTION 9. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Company. Although this Assignment is dated for convenience as of May 1, 1971, 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 terms of this Assignment and the 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 rights conferred by Section 20c of the

poration, and has the power and authority to own its properties and to carry on its business as now conducted;

(*f*) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the rights, title and interests and powers, privileges and remedies of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Company in accordance with the provisions of the Conditional Sale Agreement, were free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and, as to the units manufactured by Pacific Car, the rights of the Company under the Lease Agreement dated as of May 1, 1971, between Pacific Car and the Company, and the Lease of the same date between the Company and Pacific Fruit Express Company;

(*g*) Unless payment of the amount payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall be made by the Assignee with funds furnished to it for that purpose by the Company, the receipt from the Manufacturer for such payment.

In giving the opinions specified in subparagraphs (*d*) (*e*) and (*f*) of the first paragraph of this Section 6, counsel may qualify any opinion, to the effect that any agreement is enforceable in accordance with its terms, by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion. In giving the opinion specified in said subparagraph (*d*), counsel may rely, as to the authorization, execution and delivery by each Manufacturer of the documents executed by such Manufacturer, and to title to the units of Equipment of such Manufacturer at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for such Manufacturer, and as to any matters governed by the law of any jurisdiction other than New York and the United States, on the opinion of counsel for such Manufacturer or the opinion of counsel for the Company as to such matters.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Company shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account

of the Purchase Price of the Equipment to be settled for on such Closing Date, the Company shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under subparagraph (c) of the third paragraph of Article 3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Company. By any such payment, however, the Company shall not acquire any rights under this Assignment.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement shall constitute an event of default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Company thereunder. 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. In compliance with Article 23 of the Conditional Sale Agreement the address of the Assignee for purposes of notices and payments is The Chase Manhattan Bank, (N.A.), Corporate Trust Administration, 1 Chase Manhattan Plaza, New York, New York 10015 or such other address as the Assignee shall have furnished in writing to the Company.

SECTION 8. Each Manufacturer hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed

and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Company, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and the Company in accordance with its terms and that it is now in force without amendment thereto; and

(*b*) represents and warrants to the Assignee, its successors and assigns, that as of its execution and delivery of this Assignment all of its right, title and interest in and to the Conditional Sale Agreement was free of all claims, liens, security interests and other encumbrances whatsoever; and

(*c*) covenants and 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.

SECTION 9. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Company. Although this Assignment is dated for convenience as of May 1, 1971, 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 terms of this Assignment and the 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 rights conferred by Section 20c of the

Interstate Commerce Act, and to the recording provisions of any other statutes pursuant to which this Agreement may be recorded.

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 officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

General Electric Company

By .....
Vice President

Attest:

.....
Secretary

Gunderson, Inc.

By .....
Vice President

Attest:

.....
Secretary

International Car Company
(Division of International Ramco, Inc.)

By .....
Divisional President

Attest:

.....
Secretary

PACIFIC CAR AND FOUNDRY COMPANY

By .....
Vice President

Attest:

.....
Secretary

UNION PACIFIC MOTOR FREIGHT COMPANY

By .....
Vice President

Attest:

.....
Secretary

THE DARBY PRODUCTS OF STEEL PLATE CORPORATION

By .....
President

Attest:

.....
Asst. Secretary

THE CHASE MANHATTAN BANK,
(National Association),
Agent

By .....
Vice President

Attest:

.....
Asst. Secretary

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PACIFIC CAR AND FOUNDRY 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GUNDERSON, INC., 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

STATE OF NEW YORK
COUNTY OF ERIE ss.:

On this day of , before me personally appeared KARL S. LONG, to me personally known, who, being by me duly sworn, says that he is a President of INTERNATIONAL CAR COMPANY (Division of International Ramco, Inc.) 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

STATE OF
COUNTY OF ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNION PACIFIC MOTOR FREIGHT 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

STATE OF Kansas
COUNTY OF Wyandotte ss.:

On this 6th day of August, before me personally appeared W. J. Haynes Jr., to me personally known, who, being by me duly sworn, says that he is President of THE DARBY PRODUCTS OF STEEL PLATE 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.

B. J. Thomas
.....
Notary Public

My Commission [illegible] 1972

STATE OF New York
COUNTY OF New York SS.:

On this 12th day of August 1971, before me personally appeared J. L. HOWARD, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK, (N.A.), 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.

Loretta Jedlicka
Notary Public

LORETTA JEDLICKA
Notary Public, State of New York
No. 31-4500151
Qualified in New York County
Commission Expires [illegible] 1972

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is hereby acknowledged.

UNION PACIFIC RAILROAD COMPANY

By .....

Vice President

Dated as of May 1, 1971.