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RECORDATION NO. ..... Filed 1425
OCT 17 1979 -3 00 PM
INTERSTATE COMMERCE COMMISSION

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

212 HANOVER 2-3000

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CABLE ADDRESSES
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CRAVATH, LONDON E. C. 2

10897-A
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10897-C
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10897-B
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INTERSTATE COMMERCE COMMISSION

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C Washington, D.

File Second

October 15, 1979

Trailer Train Company
Lease Financing Dated as of September 1, 1979
9-7/8% Conditional Sale Indebtedness Due 1996
Mercantile Trust Company, N.A.-blue covers

[CSA marked B]

Dear Mr. Homme:

Pursuant to 49 U.S.C. § 11303(a) and the Commission's rules and regulations thereunder, I enclose herewith on behalf of Trailer Train Company, for filing and recordation, counterparts of the following documents:

New No.

1 (a) Conditional Sale Agreement dated as of September 1, 1979, between First Security Bank of Utah, N.A., as Trustee, and each of Bethlehem Steel Corporation, Pullman Incorporated (Pullman Standard Division), ACF Industries, Incorporated, and Thrall Car Manufacturing Company;

— A

(b) Agreement and Assignment dated as of September 1, 1979, between each of Bethlehem Steel Corporation, Pullman Incorporated (Pullman Standard Division), ACF Industries, Incorporated, and Thrall Car Manufacturing Company, and Mercantile-Safe Deposit and Trust Company, as Agent; and

— B

2 (a) Lease of Railroad Equipment dated as of September 1, 1979, between Trailer Train Company and First Security Bank of Utah, N.A., as Trustee;

Counterpart

E1 B

(b) Assignment of Lease and Agreement dated as of September 1, 1979, between First Security Bank of Utah, N.A., as Trustee, and Mercantile-Safe Deposit and Trust Company, as Agent.

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

(1) Assignee-Agent-Vendor:

Mercantile-Safe Deposit and Trust Company
P. O. Box 2258
Baltimore, Maryland 21203

(2) Trustee:

First Security Bank of Utah, N.A.
79 South Main Street
Salt Lake City, Utah 84111

(3) Builders-Vendors:

Bethlehem Steel Corporation
Bethlehem, Pennsylvania 18016

Pullman Incorporated (Pullman Standard Division)
200 South Michigan Avenue
Chicago, Illinois 60604

ACF Industries, Incorporated
750 Third Avenue
New York, N. Y. 10017

Thrall Car Manufacturing Company
P. O. Box 218
Chicago Heights, Illinois 60401.

(4) Lessee:

Trailer Train Company
300 South Wacker Drive
Chicago, Illinois 60606

Please file and record the documents referred to in this letter and cross-index them under the names of the Assignee-Agent-Vendor, the Trustee, the Builders-Vendors and the Lessee.

[CS&M Ref.: 2164-095]

10897-B

RECORDATION NO. ..... Filed 1425

OCT 17 1979 -3 30 PM

INTERSTATE COMMERCE COMMISSION

Lease of Railroad Equipment

(No. 23B)

Dated as of September 1, 1979

among

TRAILER TRAIN COMPANY

and

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity, but solely as Trustee for
MERCANTILE TRUST COMPANY, N.A., the Owner

all or any part of such payment from the Trustee, the Owner or the Vendor for any reason whatsoever.

§2. *Delivery and Acceptance of Units.* The Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. Each delivery of a Unit to the Trustee under the CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Trustee under the CSA. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such unit on behalf of the Trustee under the CSA and itself hereunder and to execute and deliver to the Trustee a certificate of acceptance ("Certificate of Acceptance") in accordance with the provisions of Article 3 of the CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Trustee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon such Unit shall, except as provided in the last paragraph of Article 3 of the CSA, be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The Lessee hereby represents and warrants to the Trustee that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Lessee as agent for the Trustee hereunder.

§3. *Rentals.* With respect to each of the Units subject to this Lease, the Lessee will pay to the Trustee the following rentals: a special rental payment payable on each Closing Date (as defined in Article 4 of the CSA) with respect to such Unit and 32 consecutive semiannual payments ("Basic Rentals"), payable on January 15 and July 15 in each year, commencing July 15, 1980. Each special rental payment shall be in an amount equal to interest (computed on the basis of a 360-day year of twelve 30-day months) on the Purchase Price (as defined in Article 4 of the CSA) of such Unit from the thirtieth day following the date of acceptance thereof pursuant to § 2 hereof to the Closing Date with respect to such Unit, at a rate per annum equal to the rate which Manufacturers Hanover Trust Company, New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable; *provided, however,* that changes in such prime rate occurring during the ten business days preceding such Closing Date shall be disregarded; and *provided, further,* that such amount in respect of such Unit shall be the amount of interest on the Purchase Price thereof due the Builder thereof pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA. The 32 semiannual Basic Rentals in respect of each such Unit shall each be in an amount equal to 4.1704% of the Purchase Price of such Unit subject to this Lease on such date of such payment.

In addition to the foregoing rentals, the Lessee will pay to the Trustee, the following additional rentals: (i) an amount equal to any deficiency amount required to be paid by the Trustee pursuant to the first paragraph of Paragraph 10 of the Participation Agreement, (ii) an amount equal to any amount required to be paid by the Trustee pursuant to clause (a) of the last paragraph of Paragraph 10 of the Participation Agreement, and (iii) an amount equal to any amount required to be paid by the Trustee pursuant to clause (b) of the last paragraph of Paragraph 10 of the Participation Agreement, in each case on such date as will enable the Trustee to make such payment.

If any of the rental payment dates referred to above is not a business day (as such term is defined in Article 4 of the CSA), the semiannual rental payment otherwise payable on such date shall then be payable on the following business day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such following business day.

For so long as the CSA shall remain in effect, the Trustee irrevocably instructs the Lessee to make all the payments due the Trustee provided for in this Lease (other than payments which by the express terms of §§ 6, 9 and 19 of this Lease are payable directly to the Trustee) to the Vendor, for the account of the Trustee in its capacity as trustee, in care of the Vendor, with instructions to the

Vendor (a) first to apply such payments to satisfy the obligations of the Trustee under the CSA known to the Vendor to be due and payable thereunder on the date such payments are due and payable hereunder and (b) second, so long as no event of default under the CSA shall have occurred and be continuing, to pay any balance promptly to the Trustee or as directed by the Trustee in immediately available funds at such place as the Trustee shall specify in writing.

The Lessee agrees to make each payment provided for herein as contemplated by this § 3 in immediately available or Federal funds at or prior to 11:00 a.m. Baltimore time to the office of the Vendor (at P.O. Box 2258, Baltimore, Maryland 21203, attention of Corporate Trust Department) on the date due, or if the CSA shall no longer be in effect, at the office of the Trustee.

§4. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder as aforesaid and, subject to the provisions of § 7, 10 and 13 hereof, shall terminate on January 15, 1996. Except for obligations of the Lessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Lessee hereunder (including, but not limited to, the obligations under § 3, 6, 7, 9, 11, 14, and 20 hereof) shall survive the expiration of the term of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the CSA. If an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination), all as provided therein.

§5. *Identification Marks.* The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words, "Ownership subject to a Security Agreement filed with the Interstate Commerce Commission", or other appropriate words designated by the Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Trustee's title to and the Vendor's security interest in such Unit and the rights of the Trustee under this Lease and of the Vendor under the CSA. The Lessee will not place or permit any such Unit to be placed in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Lessee will not change or permit to be changed the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Trustee and filed, recorded and deposited by the Lessee in all public offices where this Lease and the CSA shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Trustee an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Trustee's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Trustee in such Units.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; *provided, however,* that the Lessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of its rights to use the Equipment under this Lease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Lessee therein.

§6. *Taxes.* Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees to pay, and to indemnify and hold the Trustee, the Owner, the Vendor, the Investor and the estate held in trust by the Trustee under the Trust Agreement and by the Vendor under the CSA harmless from all taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Trustee, the Owner, the Vendor, the Investor, the Lessee, such trust estate, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this Lease, the Lease Assignment, the Consent, the Trust Agreement, the Participation Agreement, the CSA, the CSA Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held in trust by the Trustee under the Trust Agreement or by the Vendor under the CSA (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); *excluding, however:* (i) Taxes of the United States or of any state or political subdivision thereof and (if and to the extent that any person is indemnified by the Lessee pursuant to Paragraph 9 of the Participation Agreement) of any foreign country or of any subdivision thereof, imposed on or measured solely by the net income or excess profits of the Trustee (in its individual capacity), the Owner, the Investor or the Vendor (in its individual capacity), other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by the Owner or any transfer or disposition by the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence or an Event of Default shall have occurred and be continuing; (iii) any Taxes imposed on or measured by any trustee or agency fees received by the Trustee or the Vendor; and (iv) Taxes which are imposed on or measured solely by the net income of the Trustee, the Investor or the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Lessee has not agreed to pay or indemnify against pursuant to this § 6; *provided, however,* that the Lessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the next succeeding paragraph. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or political subdivision thereof, or of any foreign country or subdivision thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; *provided, however,* that the Lessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such

indemnified party in any such proceeding or action) without the prior written consent of such indemnified party. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such indemnified party shall pay to the Lessee the amount of such refund or interest net of expenses; *provided, however*, that no Event of Default and no event which, with notice or lapse of time or both, would constitute an Event of Default shall have occurred and be continuing.

In case any report or return is required to be made with respect to any obligation of the Lessee under this § 6 or arising out of this § 6, except obligations resulting from the second sentence of the first paragraph of this § 6, the Lessee shall either make such report or return in such manner as will show the interests of the Trustee in the Units, or shall promptly notify the Trustee, the Owner and the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Trustee, the Vendor and the Owner. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

All the obligations of the Lessee under this § 6 shall survive and continue, but only with respect to periods included in the term of this Lease, notwithstanding payment in full of all amounts due under the CSA or the termination of this Lease. All amounts payable by the Lessee pursuant to this § 6 shall be payable directly to the indemnified party entitled to indemnification, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the CSA or a guarantee of the residual value of the Equipment.

The Lessee shall furnish promptly, upon request, such information and data as are normally available to the Lessee and which the Trustee, the Vendor or the Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§7. *Payment for Casualty Occurrences; Insurance.* In the event that any of the Units shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease, (any such occurrence being hereinafter called "Casualty Occurrence") during the term of this Lease or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Lessee shall promptly and fully notify the Trustee and the Vendor with respect thereto. On the rental payment date (not earlier than the first regular Basic Rental payment date) next succeeding the delivery of such notice (or, in the event such Basic Rental payment date will occur within 15 days after delivery of notice, on the following Basic Rental payment date, or, in the event the term of this Lease has already expired or will expire within 15 days after delivery of such notice, on a date within 15 days of such delivery) ("Casualty Payment Date"), the Lessee shall pay to the Trustee an amount equal to the rental payment or payments in respect of such Unit due and payable on such Casualty Payment Date plus a sum equal to the Casualty Value of such Unit as of the Basic Rental payment date which first follows the actual date of the Casualty Occurrence (regardless of the date on which the determination that such Unit suffered the Casualty Occurrence is made) (such Basic Rental payment date being hereinafter called "Calculation Date"). Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the Casualty Payment Date, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Trustee shall be entitled to recover possession of such Unit.

If the Casualty Payment Date shall be after the term of this Lease in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term, but, in addition to paying the Casualty Value for such Unit, the Lessee shall pay interest thereon from the end of such term to the

Casualty Payment Date at the prime rate of interest which Manufacturers Hanover Trust Company charges on the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing.

The Trustee hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Trustee and is not in default hereunder or an event which after notice or lapse of time or both would become a default hereunder, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Trustee.

The Casualty Value of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite such date.

In the event of the requisition for use by the United States Government of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall at the time of such requisition be scheduled to extend beyond the then remaining term of this Lease, all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Trustee pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease; but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments received by the Trustee or the Lessee from the Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Trustee or the Lessee from the Government for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Trustee.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee shall at all times while this Lease is in effect maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Units at the time subject hereto, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against risks customarily insured against by the Lessee on similar equipment owned by it. The Owner may at its own expense maintain property and casualty insurance in respect of the Units.

The Lessee will, at all times prior to the return of the Equipment to the Trustee in accordance with the terms of this Lease, at its own expense, cause to be carried and maintained public liability insurance, in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it.

§8. *Reports.* On or before April 1 in each year, commencing with the calendar year 1980, the Lessee will furnish to the Trustee, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the CSA, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information

regarding the condition and state of repair of the Units as the Trustee or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and the CSA have been preserved or replaced. The Trustee shall have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Trustee may request during the continuance of this Lease.

The Lessee agrees at its expense to prepare and deliver to the Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Trustee) any and all reports (other than income tax returns) to be filed by the Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Trustee or the Vendor of the Units or the leasing thereof to the Lessee.

§9. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification.* NEITHER THE TRUSTEE NOR THE OWNER MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE TRUSTEE NOR THE OWNER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Trustee and the Lessee, are to be borne by the Lessee; but the Trustee hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease, so long as no Event of Default shall have occurred and be continuing, to assert and enforce from time to time, in the name of and for the account of the Trustee and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Trustee may have against any Builder. The Trustee and the Owner shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Trustee that the Units described therein are in all the foregoing respects satisfactory to the Lessee; and the Lessee will not assert any claim of any nature whatsoever against the Trustee or the Owner based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Trustee, the Owner and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which operations involving the Units may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent being hereinafter called "Applicable Laws") and in the event that Applicable Laws require any alteration, replacement, modification or addition of or to any part of any

Unit, the Lessee will fully conform therewith at its own expense; *provided, however,* that the Lessee may upon written notice to the Trustee and the Vendor, in good faith, contest the validity or application of any such Applicable Laws in any reasonable manner which does not, in the opinion of the Trustee or the Vendor, adversely affect the property or rights of the Trustee or the Vendor, respectively, under this Lease or under the CSA.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted.

The term "Units" as used in this Lease shall not include any special devices, racks (including, but not limited to, automobile-carrying superstructures) or assemblies at any time attached to any Unit, the cost or purchase price of which is not included in the Purchase Price of the Units or the title to which is in a person other than the Trustee (all of which are hereinafter called "Property Owned by Others"). The Trustee and the Lessee recognize that such special devices, automobile-carrying superstructures and other assemblies may be attached to the Units and may be owned and financed by persons other than the Trustee or the Lessee. The Trustee expressly acknowledges, for the purpose of assurance of any such persons and for the purpose of inducing attachment of such special devices, automobile-carrying superstructures and other assemblies to the Units, that the Trustee has no rights therein and that such persons may, at their own cost and expense, upon written notice to the Trustee and the Vendor, remove such special devices, automobile-carrying superstructures and other assemblies from the Units. The Lessee represents and warrants that it will, at the time of termination of this Lease (i) cause all Property Owned by Others to be removed from the Units, (ii) repair all damage, if any, caused by such removal, and (iii) after such removal, the value or utility of the Unit to which it was attached will not be diminished or impaired from what such value or utility would have been if such Property of Others had not been attached thereto. The Lessee and its affiliates, at their own cost and expense, may from time to time make such other alterations, modifications and additions at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the United States Department of Transportation or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit (hereinafter collectively called "Additions") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease; *provided, however,* that no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such Addition not been made.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of a Unit shall without further act vest in the Trustee and be subject to a valid first lien and prior perfected security interest under the CSA in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of such Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for any such original Part, (ii) such Part is required to be incorporated in or installed as part of such Unit pursuant to the terms of the second or third paragraph of this § 9, or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from such Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all

other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Lessee shall pay, and shall protect, indemnify and hold the Trustee, the Owner, the Investor and the Vendor and their respective successors, assigns, agents and servants (hereinafter called "Indemnified Persons") as third party beneficiaries hereof, harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses [including without limitation attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or by statute imposed; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease (except by the Trustee) or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Trustee's obligations under the Lease Assignment, the CSA or the Participation Agreement, except to the extent such claim arises from an act or omission of the Trustee; or (viii) any claim arising out of the Vendor's holding a security interest under the CSA or the Lease Assignment (all of which matters hereinabove set forth in this paragraph being hereinafter called "Indemnified Matters"); *except, however,* in the case of any Builder, (i) any losses, damages, injuries, liabilities, claims and damages whatsoever arising out of any tort by such Builder, or out of any breach of warranty or failure to perform any covenant under the CSA by such Builder and (ii) any matter covered by such Builder's warranty of material and workmanship and patent indemnification referred to in Item 3 of Annex A to the CSA. All payments hereunder shall be made directly to the Indemnified Person. The Lessee shall be obligated under this § 9, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 9 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this § 9, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by

reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 9 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, it shall be subrogated to any right of such Indemnified Person in respect of the Indemnified Matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any Indemnified Matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this § 9 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such matter.

The Lessee further agrees to indemnify, protect and hold harmless each Builder, as third party beneficiaries hereof, from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against such Builder because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by the applicable Builder or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by such Builder which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to the applicable Builder of any claim known to the Lessee from which liability may be charged against such Builder under the CSA.

The indemnities contained in this § 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by any Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the CSA or a guarantee of the residual value of the Equipment.

§10. *Default.* If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an "Event of Default") shall occur:

A. payment of any part of the rental provided in § 3 or § 13 hereof or payment in respect of any Casualty Occurrence pursuant to § 7 hereof shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for five business days after such payment is due; or

B. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement or the Consent, and such default shall continue for 30 days after written notice from the Trustee or the Vendor to the Lessee specifying the default and demanding that the same be remedied; or

C. any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease, the Participation Agreement or the Consent 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 readjustments of the obligations of the Lessee hereunder, under the Participation Agreement or under the Consent),

and, unless such proceedings 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 Lessee under this Lease, under the Participation Agreement or under the Consent, as the case may be, shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such a trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

D. an event of default set forth in Article 15 of the CSA shall have occurred resulting directly from any default by the Lessee in performing any of its obligations hereunder or under the Participation Agreement;

then, in any such case, the Trustee at its option, may,

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease with respect to any or all of the Units, whereupon all rights of the Lessee to the use of such Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Trustee may by its agents enter upon the premises of the Lessee or other premises where any of such Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Trustee shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) in respect of such Units and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Trustee, in its sole discretion, shall specify: (x) a sum with respect to each such Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Trustee reasonably estimates to be obtainable for each such Unit during such period, such present value to be computed in each case on the basis of a 9⅞% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Trustee shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount equal to the excess, if any, of the Casualty Value of each such Unit as of the rental payment date on or next preceding the date of termination over the amount the Trustee reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; *provided, however,* that in the event the Trustee shall have sold any such Unit, the Trustee, in lieu of collecting any amounts payable to the Trustee by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand

that the Lessee pay the Trustee and the Lessee shall pay to the Trustee on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Trustee's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Trustee shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Trustee to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Trustee.

The Lessee also agrees to furnish the Trustee, the Owner and the Vendor, promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default hereunder or which, after notice or lapse of time or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this Section, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of his operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

§11. *Return of Units Upon Default.* If this Lease shall terminate in respect of any of the Units pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of such Units to the Trustee and shall give prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each such Unit returned to the Trustee pursuant to this § 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear and modifications, if any, permitted by this Lease excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any such Unit or Units to the Trustee as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Trustee and there assembled,

(b) furnish and arrange for the Trustee to store such Units on any lines of railroad or premises approved by the Trustee until such Units have been sold, leased or otherwise disposed of by the Trustee, and

(c) cause such Units to be moved to such interchange point or points as shall be designated by the Trustee upon any sale, lease or other disposal of all or any of such Units.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee (and the Lessee will during this period maintain the insurance required by § 7 of this Lease to be maintained) and are of the essence of this Lease; and, upon application to any court of equity having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will permit the Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Unit, to inspect the same. In the event that any of the Units are sold, the Lessee shall pay to the Trustee the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Trustee as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

§12. *Assignment; Possession and Use.* This Lease shall be assignable in whole or in part by the Trustee without the consent of the Lessee; but the Lessee shall be under no obligation to any assignee of the Trustee other than the Vendor except upon written notice of such assignment from the Trustee. All the rights of the Trustee hereunder and obligations of the Lessee (including, but not limited to, the rights under §§ 6, 7 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Owner and the Owner's and the Trustee's assigns.

So long as no Event of Default or event of default exists hereunder or under the CSA and the Lessee shall have fully complied with the provisions of this § 12, the Lessee shall be entitled to the possession of the Units and also to sublease the Units to, or to permit their use under the terms of car contracts by, a sublessee or user incorporated in the United States of America (or any State thereof or the District of Columbia) or Canada (or any Province thereof), upon lines of railroad owned or operated by a railroad company or companies incorporated in the United States of America (or any State thereof or the District of Columbia) or Canada (or any Province thereof), or over which such railroad company or companies have trackage rights or rights for operation of their trains, and upon connecting and other carriers in the usual interchange of traffic in the continental United States, only upon and subject to all the terms and conditions of this Lease; *provided, however,* that if the Lessee subleases or permits the use of any Unit in Canada (or any Province or Territory thereof), the Lessee shall, except as otherwise provided in § 15 hereof, first have (a) taken all necessary action to protect the right, title and interest of the Trustee and the Vendor in the Units to be so subleased or used and (b) furnished the Trustee and the Vendor with an opinion of Canadian counsel satisfactory to the Trustee and the Vendor to the effect that such action is all that is necessary to protect the right, title and interest of the Trustee and the Vendor in such Units; *provided, further,* that no Units shall be used predominantly outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee sublease the Units to, or permit their use by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of such Code.

Any such sublease may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Units included in such sublease and the use thereof; *provided, however,* that every such sublease shall be subject to the rights and remedies of the Vendor under the CSA and the Trustee under this Lease in respect of the Units covered by such sublease upon the occurrence of an event of default thereunder or an Event of Default hereunder.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease or car contract as aforesaid and other than an encumbrance resulting from claims against the Trustee or the Vendor not related to the ownership or leasing of, or the security interest of the Vendor in, the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interest of the Trustee, the Owner, the Vendor or the Lessee therein. The Lessee shall not, without the prior written consent of the Trustee, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of this § 12.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any solvent corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Lessee hereunder, under the Consent and under the Participation Agreement by an appropriate instrument in writing) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition be in default under any provision of this Lease.

§13. *Renewal Options and Right of First Refusal.* The Trustee intends to retain the Units for re-lease at the expiration of the term of this Lease. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Trustee not less than six months prior to the end of the original term of this Lease elect to extend the term of this Lease in respect of all, but not fewer than all, of the Units then covered by this Lease for one additional four-year period commencing on the scheduled expiration of the original term of this Lease, at a semiannual rental equal to 2.0852% of the Purchase Price of each such Unit; such rental is payable in arrears on January 15 and July 15 in each year of the extended term of this Lease.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Trustee not less than six months prior to the end of the term of this Lease as extended pursuant to the first paragraph of this § 13, elect to extend the term of this Lease in respect of all but not fewer than all of the Units then covered by this Lease, for two additional five-year periods commencing on the scheduled expiration of the extended four-year term of this Lease or the first such five-year extended term, as the case may be, at a "Fair Market Rental" payable in semiannual payments on the semiannual anniversaries of the expiration of the preceding extended term.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Trustee and the Lessee are unable to agree upon a determination of the Fair Market Rental, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his appointment. The determination of Fair Market

Rental of the appraiser appointed pursuant to this paragraph shall be final. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

In the event that the Lessee shall in its reasonable judgment determine that it is not economically feasible for the Lessee to comply with the provisions of the second paragraph of § 9 hereof or clause (iii) of the first paragraph of § 14 hereof during any extended term of this Lease as extended pursuant to the provisions of the second paragraph of this § 13 with respect to any Unit, the Lessee shall have the right at its option, on at least 30 days' prior written notice to the Trustee, to terminate this Lease as to such Unit (subject to the provisions for the survival of indemnification obligations contained in § 6 and 9 hereof) as of the next scheduled rental payment date during such extended term upon payment to the Trustee of the present value as of such date of termination of the remaining rental for such Unit during such extended term with the semiannual rentals discounted semiannually at an annual rate of 9⅞%; and the Lessee shall return such Unit to the Trustee as soon as reasonably practical.

Provided the Lessee exercises the renewal option provided in the first paragraph of this § 13, and provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, and provided that the Lessee has not exercised any renewal option pursuant to the provisions of the second paragraph of this § 13, in the event the Trustee elects to sell any of the Units to third parties at the expiration of the term of this Lease as extended pursuant to the first paragraph of § 13 hereof, the Lessee, at its written request, shall be given written notice of such intention prior to the expiration of the term of this Lease as so extended. In the event that the Trustee shall receive, prior to 45 days after the expiration of said term of this Lease, a bona fide offer in writing from another party to purchase such Units and the Trustee elects to sell such Units pursuant to such offer at the expiration of the term of this Lease as extended pursuant to the first paragraph of this § ~~14~~ 13, the Trustee shall give written notice to the Lessee of such offer. Such notice shall be given to the Lessee on any date not earlier than 135 days prior to, and not later than 45 days after, the expiration of said term of this Lease, and shall include the price offered by the other party in writing to the Trustee. The Lessee shall have the sole right and option, for a period of 20 days from the date of receipt of such notice, to purchase such Units for cash at the price at which the Units are proposed to be sold (which shall not be less than the fair market value thereof). The Lessee shall exercise such purchase right by delivery to the Trustee of a written notice specifying a date of purchase, which date shall not be later than the later of (i) 15 days after the date of receipt of such notice by the Lessee to the Trustee or (ii) 45 days after the expiration of said term of this Lease. In the event that the Lessee shall have delivered a notice of its election to purchase such Units, this Lease (including the obligation to pay rent) shall be further extended upon the same terms and conditions set forth herein from the date such notice is delivered to the Trustee until the date of such purchase.

§14. *Return of Units upon Expiration of Term.* On or prior to the termination of the term of this Lease or as soon as practicable on or after the termination of the term of this Lease and in any event not later than 90 days after the termination of the term of this Lease the Lessee will, at its own cost and expense, at the request of the Trustee, cause each of the Units to be transported to such point or points as shall be reasonably designated by the Trustee immediately prior to such termination and arrange for the Trustee to store such Unit on any lines of railroad or premises approved by the Trustee for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 90 days from the date at which at least 90% of the Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of the Units to be at the expense and risk of the Lessee, and the Lessee will during this period maintain the insurance required by § 7 of this Lease to be maintained. During any such storage period the

Lessee will permit the Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of such Unit or Units, to inspect the same; *provided, however,* that the Lessee shall not be liable except in the case of negligence or intentional act of the Lessee or of its employees or agents and, except to the extent otherwise provided by law, for any injury to or the death of any person exercising, either on behalf of the Trustee or any prospective purchaser or lessee, the rights of inspection granted under this sentence. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Trustee pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Trustee pursuant to § 9 hereof and have removed therefrom at Lessee's expense any Part or Addition title to which is in the Lessee or any other person pursuant to such § 9 and any Property Owned by Others and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. If any of the Units suffers a Casualty Occurrence during any storage period provided for in this § 14, the Lessee shall pay to the Trustee the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of this Lease as to such Unit, belong to and be the property of the Trustee. In the event that by the 90th day after the termination of the original or any extended term of this Lease the Lessee has not, at the request of the Trustee, caused at least 90% of the Units to be transported to such point or points as shall have been designated by the Trustee pursuant to this § 14, the Lessee shall pay to the Trustee the per diem interchange multiplied by the number of such Units equal to the difference between 90% of such Units and the number of such Units previously delivered pursuant to this § 14 (such number to be determined on each day) for each day from such 90th day to the date on which at least 90% of such Units have been so transported. If, after the termination of the storage period provided in this § 14, any of such Units have not been so transported, the Lessee shall pay to the Trustee the per diem interchange for each such Unit not so transported for each day after the end of such storage period until such Unit or Units have been so transported.

Upon the expiration of the original term of this Lease on January 15, 1996, if the Lessee shall decide not to exercise the renewal option provided by the first paragraph of § 13 hereof, the Lessee will deliver to the Trustee a certificate of an officer of the Lessee to the effect that (a) no Event of Default or any event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of January 15, 1996; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against the Trustee or the Owner) were, as of January 15, 1996, imposed on or with respect to any Unit, any accession thereto, or the interest of the Trustee or the Owner therein; (c) the Units have been returned to the Trustee pursuant to this § 14 in the same operating order, repair and condition required by the first paragraph of this § 14 and (d) the Lessee no longer has any interest in the Units under the Lease or otherwise. If a certificate of an officer of the Lessee is required to be furnished pursuant to the preceding sentence, the certificate described in clause (a) in the preceding sentence shall be furnished on January 15, 1996, and the certificates described in clauses (b), (c) and (d) in the preceding sentence shall be furnished on a monthly basis, beginning on February 15, 1996, and such certificate shall cover each such Unit returned during the preceding 30 calendar days and shall apply to each such Unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this § 14. Upon the expiration of any extended term of this Lease, if the Lessee shall decide not to exercise any further renewal option, or if the Lessee shall have no such further renewal option, the Lessee shall deliver to the Trustee a certificate of an officer of the Lessee to the foregoing effect, with such conforming changes as shall be appropriate under the circumstances.

§15. *Recording.* The Lessee, at its own expense, will cause this Lease, the CSA, the CSA Assignment, the Lease Assignment and any assignment hereof or thereof to be filed with the Interstate Commerce Commission pursuant to 49. U.S.C. § 11303(a). The Lessee will, at its own expense, undertake the filing, registering, deposit, and recording required of the Trustee under the CSA and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, re-register, deposit and redeposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA or the Lease Assignment; *provided, however,* that the Lessee shall not be required to take any such action in respect of any jurisdiction outside the United States if (1) the Lessee deems such action to be unduly burdensome, (2) after giving effect to the failure to take such action, the Lessee has taken all action required by law to protect the title of the Trustee to and the security interest of the Vendor in Units having a Fair Value (as defined in Article 7 of the CSA) of not less than 85% of the aggregate Fair Value of all the Units then subject to this Lease, and (3) any Unit at any time located in such jurisdiction shall have been marked with the markings specified in § 5 hereof.

The Lessee will promptly furnish to the Vendor and the Trustee evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Trustee. This Lease and the CSA shall be filed with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§16. *Provisions Concerning Subordinated Notes.* It is the intention of the parties hereto, and the Lessee hereby represents and warrants to such effect, that the obligations of the Lessee under this Lease shall be superior in right of payment to all the Lessee's Thirty-Year Subordinated Notes sold or to be sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between the Lessee and certain of its stockholders. The Lessee agrees that if an Event of Default exists hereunder or an event of default exists under the CSA or any event which, with the giving of notice or the lapse of time, or both, would constitute such an Event of Default or an event of default, shall have occurred and be continuing, the Lessee will not voluntarily prepay or retire any of such Notes.

The Lessee agrees not to merge or consolidate with any other corporation unless the survivor of such merger or consolidation shall be a solvent corporation organized under the laws of the United States of America or a State thereof or the District of Columbia and such survivor (if not the Lessee) shall assume all the obligations and liabilities of the Lessee hereunder, under the Participation Agreement and under the Consent.

§17. *Increase of User Rates.* The Lessee covenants and agrees, in addition to and not in limitation of any other remedies of the Trustee hereunder or otherwise, (i) that, if an Event of Default exists under clause A of § 10 hereof by reason of the failure of the Lessee to pay within the grace period provided in clause A of § 10 hereof all or any part of the rentals due and payable under § 3 hereof (but not including amounts payable by reason of acceleration of the date of payment thereof), the Lessee shall, upon written notice by the Trustee so to do, within ten days after receipt of such notice, deliver to all parties to its Form A and Form B car contracts (or such other forms as may hereafter be used in substitution or in replacement of such Form A and Form B car contracts) due and proper notice of increases in the car user charges under such contracts, (ii) that all car contracts covering any unit or units of railroad equipment of which the Lessee is the owner or the lessee will contain provisions permitting the Lessee to require such increases and (iii) that, except in connection with an assignment or transfer in accordance with the provisions of the CSA, the Lessee will not assign or transfer its rights and obligations to require such increases under any such car

contracts. Such increases shall commence to accrue and shall be effective on the first day of the first calendar month beginning subsequent to ten days after delivery of such notice by the Lessee to the parties to such car contracts. Such increases shall be in such amounts or percentages as will cause to accrue and be payable to the account of the Lessee in respect of the first calendar month during which they are in effect such additional sums of money as will be needed by the Lessee to enable it to pay as rental hereunder an amount equal to all such overdue rentals (with interest on overdue rentals equal to 10⅞% per annum, to the extent that it shall be legally enforceable) and, to cure any defaults in payment of any principal or interest or rentals payable under comparable provisions of any other equipment trust, conditional sale or other equipment agreement or lease of the Lessee not guaranteed jointly and severally by its shareholders or a group of its shareholders (except defaults arising by reason of acceleration of the date of payment of installments of principal, dividends or interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Lessee relating to the use of its cars. If for any reason any such increases so made by the Lessee shall fail to provide in 90 days sufficient cash to enable the Lessee to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Lessee shall, upon receipt of written notice from the Trustee so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Lessee to cure all such defaults hereunder and under such other agreements.

§18. *Obligations of Trustee Under CSA; Additional Rentals.* In the event that the Trustee shall become obligated to make any payment (other than payments in settlement for any Unit or the principal of or interest on the CSA Indebtedness in respect thereof pursuant to the CSA and pursuant to the proviso to the third paragraph of Article 12 thereof) or to perform any obligations pursuant to the CSA not covered by the provisions of this Lease, the Lessee shall pay such additional rentals hereunder and perform such obligations so that all of the Trustee's obligations (other than as aforesaid) pursuant to the CSA shall be fully complied with, without regard for any limitation of liability of the Trustee contained in the CSA.

§19. *Trustee's Right to Perform for the Lessee.* If the Lessee fails to perform or comply with any of its agreements contained herein, the Trustee may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Trustee incurred in connection with such performance or compliance, together with interest on such amount at the rate of 10⅞% per annum, shall be payable by the Lessee upon demand.

§20. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to interest at a rate of 10⅞% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§21. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when delivered to such other party or deposited in the United States mails, first-class postage prepaid, addressed as follows:

if to the Trustee, at 79 South Main Street, Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department;

if to the Lessee, at 300 South Wacker Drive, Chicago, Illinois 60606, attention of Vice President—Finance;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party.

Any notice to the Lessee by the Vendor or the Investor regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Trustee.

§22. *Trustee Acting as Trustee.* The representations, undertakings and agreements herein made on the part of the Trustee are made and intended for the purpose of binding only the Trust Estate as such term is defined in the Trust Agreement.

Whenever the term Trustee is used in this Lease it shall apply and refer to the Trustee, as trustee under the Trust Agreement, and any successor or assignee of the Trustee, in such capacity.

§23. *No Recourse.* No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Trustee, the Vendor or the Lessee, or against the Owner, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, as such, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

It is expressly agreed by the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by the financial institution acting as Trustee hereunder, or for the purpose or with the intention of binding said financial institution personally, but are made and intended for the purpose of binding the Trust Estate, and this Lease is executed and delivered by the Trustee solely in the exercise of the powers expressly conferred upon the Trustee under the Trust Agreement; and that no personal liability or responsibility is assumed by or shall at any time be asserted or enforceable against said financial institution or the Owner on account of any representation, undertaking or agreement hereunder of said financial institution, acting in its capacity as Trustee, or the Owner, either expressed or implied; all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee; *provided, however,* that the Lessee or any person claiming by, through or under the Lessee making claim hereunder, may look to the Trust Estate for satisfaction of the same.

§24. *Severability; Effect and Modification of Lease; Third Party Beneficiaries.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof; and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Trustee and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Trustee and the Lessee.

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Owner, the Builders, the Vendor, the Investor and the permitted successors and assigns of a party, each of which shall be deemed to be a third party beneficiary hereof and the Builders shall be considered to be included within the term Vendor to the extent of their respective interests, if any, in the CSA Indebtedness under the CSA) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

§25. *Execution.* This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§26. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; *provided, however,* that the parties shall be entitled to all rights conferred by 49 U.S.C. 11303.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

TRAILER TRAIN COMPANY,

by _____
Vice President—Finance

[CORPORATE SEAL]
Attest:

_____
Assistant Secretary

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity, but solely as
Trustee

by _____
Authorized Officer

[SEAL]
Attest:

Authorized Officer

STATE OF ILLINOIS,
COUNTY OF COOK, } ss.:

On this 16th day of October, 1979, before me personally appeared N. V. Reichert, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN 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.

James E. Lavanny
Notary Public

[NOTARIAL SEAL]
My Commission Expires 7-9-80

STATE OF UTAH,
COUNTY OF SALT LAKE, } ss.:

On this day of October, 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association 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 national banking association.

Notary Public

[NOTARIAL SEAL]
My Commission Expires

Schedule A to the Lease No. 23B

Type	Builder's Specifications	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Serial Numbers (Inclusive)	Estimated Time and Place of Delivery
Bethlehem Steel Corporation						
89'4" 70-ton capacity, hydraulic draft gear, flush deck, all-purpose flatcars; AAR Mechanical Designation: FC	T-6078-B	57	$50,000	$ 2,850,000	981702-981758	November 1979, at Johnstown, Pa.
68', 100-ton capacity, hydraulic draft gear, steel deck, heavy duty flatcars with steel risers and tiedowns; AAR Mechanical Designation: FC	T-4078-B	4	49,500	198,000	82032-82035	October 1979, at Johnstown, Pa.
68', 100-ton capacity, hydraulic draft gear, flush deck flatcars with bulkheads; AAR Mechanical Designation: FC	T-4078-B	30	51,500	1,545,000	82103-82132	October 1979, at Johnstown, Pa.
Pullman Incorporated (Pullman Standard Division)						
89'4" 70-ton capacity, hydraulic draft gear, flush deck, all-purpose flatcars; AAR Mechanical Designation: FC	T-3079-P	75	49,000	3,675,000	991925-991999	November 1979, at Bessemer, Ala.
ACF Industries, Incorporated						
89' 4" 70-ton capacity, hydraulic draft gear, flush deck, all purpose flatcars; AAR Mechanical Designation: FC (without universal end pockets)	T-4079-A	12	45,100	541,200	974914-974925	November 1979, at St. Louis, Missouri
89'4" 70-ton capacity, hydraulic draft gear, flush deck, all-purpose flatcars; AAR Mechanical Designation: FC	T-4079-A	15	46,250	693,750	922050-922064	November 1979, at St. Louis, Missouri
Thrall Car Manufacturing Company						
68', 100-ton capacity, hydraulic draft gear, flush deck flatcars and bulkheads; AAR Mechanical Designation: FC	T-4078-T	15	52,000	780,000	81790-81804	October 1979, at Chicago Heights, Illinois
		208		$10,282,950		

Casualty Values*

Basic Rental Payment Date	Percentage	Basic Rental Payment Date	Percentage
7/15/80	104.086100	7/15/90	61.219230
1/15/81	104.548700	1/15/91	58.764861
7/15/81	104.655254	7/15/91	56.139308
1/15/82	104.919453	1/15/92	53.486585
7/15/82	104.949753	7/15/92	50.650418
1/15/83	104.702896	1/15/93	47.674214
7/15/83	97.648443	7/15/93	44.551059
1/15/84	96.920280	1/15/94	41.273700
7/15/84	95.976153	7/15/94	38.517761
1/15/85	94.787302	1/15/95	35.751026
7/15/85	86.817112	7/15/95	32.900744
1/15/86	85.301343	1/15/96	29.954802
7/15/86	83.710734	7/15/96	28.965320
1/15/87	82.038351	1/15/97	27.946367
7/15/87	73.701791	7/15/97	26.884324
1/15/88	71.863748	1/15/98	25.537367
7/15/88	69.934953	7/15/98	24.393369
1/15/89	67.910922	1/15/99	23.189541
7/15/89	65.786955	7/15/99	21.826096
1/15/90	63.558118	1/15/00 and thereafter	20.000000

* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

[CS&M Ref.: 2164-095]

Lease of Railroad Equipment

(No. 23B)

Dated as of September 1, 1979

among

TRAILER TRAIN COMPANY

and

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity, but solely as Trustee for
MERCANTILE TRUST COMPANY, N.A., the Owner

LEASE OF RAILROAD EQUIPMENT dated as of September 1, 1979, among TRAILER TRAIN COMPANY, a Delaware corporation ("Lessee"), and FIRST SECURITY BANK OF UTAH, N.A., a national banking association, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called "Trustee") acting under a Trust Agreement dated as of the date hereof ("Trust Agreement") with the corporation named as "Owner" on the cover page of this Agreement ("Owner").

WHEREAS the Trustee has entered or will enter into a conditional sale agreement (the "CSA") with the manufacturers specified in Item 1 of Annex A to the CSA (individually "Builder" and collectively "Builders"), pursuant to which the Trustee has agreed to purchase and take delivery of the railroad equipment described in Schedule A hereto to be acquired for the Owner ("Equipment"); and

WHEREAS the Builders are assigning their interests in the CSA pursuant to an Agreement and Assignment ("CSA Assignment") to Mercantile-Safe Deposit and Trust Company, acting as Agent (hereinafter together with its successors and assigns called "Vendor"), under a Participation Agreement dated as of the date hereof ("Participation Agreement") with the Lessee, the Trustee, the Owner and the investor named therein ("Investor"); and

WHEREAS the Lessee agrees to lease from the Trustee all the units of the Equipment as are delivered and accepted under the CSA at the rentals and for the term and upon the conditions hereinafter provided (each such unit being hereinafter called "Unit"); and

WHEREAS the Trustee will assign certain of its rights under this Lease for security to the Vendor pursuant to an Assignment of Lease and Agreement ("Lease Assignment") and the Lessee will consent to the Lease Assignment pursuant to a Lessee's Consent and Agreement ("Consent");

NOW, THEREFORE, in consideration of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Trustee hereby leases the Units to the Lessee upon the following terms and conditions:

§1. *Net Lease.* This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein provided, the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Trustee or the Owner, whether under this Lease, under the CSA or otherwise, including the Lessee's rights by subrogation thereunder against any Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Trustee or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover

all or any part of such payment from the Trustee, the Owner or the Vendor for any reason whatsoever.

§2. *Delivery and Acceptance of Units.* The Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. Each delivery of a Unit to the Trustee under the CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Trustee under the CSA. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such unit on behalf of the Trustee under the CSA and itself hereunder and to execute and deliver to the Trustee a certificate of acceptance ("Certificate of Acceptance") in accordance with the provisions of Article 3 of the CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Trustee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon such Unit shall, except as provided in the last paragraph of Article 3 of the CSA, be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The Lessee hereby represents and warrants to the Trustee that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Lessee as agent for the Trustee hereunder.

§3. *Rentals.* With respect to each of the Units subject to this Lease, the Lessee will pay to the Trustee the following rentals: a special rental payment payable on each Closing Date (as defined in Article 4 of the CSA) with respect to such Unit and 32 consecutive semiannual payments ("Basic Rentals"), payable on January 15 and July 15 in each year, commencing July 15, 1980. Each special rental payment shall be in an amount equal to interest (computed on the basis of a 360-day year of twelve 30-day months) on the Purchase Price (as defined in Article 4 of the CSA) of such Unit from the thirtieth day following the date of acceptance thereof pursuant to § 2 hereof to the Closing Date with respect to such Unit, at a rate per annum equal to the rate which Manufacturers Hanover Trust Company, New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable; *provided, however,* that changes in such prime rate occurring during the ten business days preceding such Closing Date shall be disregarded; and *provided, further,* that such amount in respect of such Unit shall be the amount of interest on the Purchase Price thereof due the Builder thereof pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA. The 32 semiannual Basic Rentals in respect of each such Unit shall each be in an amount equal to 4.1704% of the Purchase Price of such Unit subject to this Lease on such date of such payment.

In addition to the foregoing rentals, the Lessee will pay to the Trustee, the following additional rentals: (i) an amount equal to any deficiency amount required to be paid by the Trustee pursuant to the first paragraph of Paragraph 10 of the Participation Agreement, (ii) an amount equal to any amount required to be paid by the Trustee pursuant to clause (a) of the last paragraph of Paragraph 10 of the Participation Agreement, and (iii) an amount equal to any amount required to be paid by the Trustee pursuant to clause (b) of the last paragraph of Paragraph 10 of the Participation Agreement, in each case on such date as will enable the Trustee to make such payment.

If any of the rental payment dates referred to above is not a business day (as such term is defined in Article 4 of the CSA), the semiannual rental payment otherwise payable on such date shall then be payable on the following business day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such following business day.

For so long as the CSA shall remain in effect, the Trustee irrevocably instructs the Lessee to make all the payments due the Trustee provided for in this Lease (other than payments which by the express terms of §§ 6, 9 and 19 of this Lease are payable directly to the Trustee) to the Vendor, for the account of the Trustee in its capacity as trustee, in care of the Vendor, with instructions to the

Vendor (a) first to apply such payments to satisfy the obligations of the Trustee under the CSA known to the Vendor to be due and payable thereunder on the date such payments are due and payable hereunder and (b) second, so long as no event of default under the CSA shall have occurred and be continuing, to pay any balance promptly to the Trustee or as directed by the Trustee in immediately available funds at such place as the Trustee shall specify in writing.

The Lessee agrees to make each payment provided for herein as contemplated by this § 3 in immediately available or Federal funds at or prior to 11:00 a.m. Baltimore time to the office of the Vendor (at P.O. Box 2258, Baltimore, Maryland 21203, attention of Corporate Trust Department) on the date due, or if the CSA shall no longer be in effect, at the office of the Trustee.

§4. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder as aforesaid and, subject to the provisions of § 7, 10 and 13 hereof, shall terminate on January 15, 1996. Except for obligations of the Lessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Lessee hereunder (including, but not limited to, the obligations under § 3, 6, 7, 9, 11, 14, and 20 hereof) shall survive the expiration of the term of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the CSA. If an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination), all as provided therein.

§5. *Identification Marks.* The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words, "Ownership subject to a Security Agreement filed with the Interstate Commerce Commission", or other appropriate words designated by the Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Trustee's title to and the Vendor's security interest in such Unit and the rights of the Trustee under this Lease and of the Vendor under the CSA. The Lessee will not place or permit any such Unit to be placed in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Lessee will not change or permit to be changed the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Trustee and filed, recorded and deposited by the Lessee in all public offices where this Lease and the CSA shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Trustee an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Trustee's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Trustee in such Units.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; *provided, however,* that the Lessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of its rights to use the Equipment under this Lease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Lessee therein.

§6. *Taxes.* Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees to pay, and to indemnify and hold the Trustee, the Owner, the Vendor, the Investor and the estate held in trust by the Trustee under the Trust Agreement and by the Vendor under the CSA harmless from all taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Trustee, the Owner, the Vendor, the Investor, the Lessee, such trust estate, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this Lease, the Lease Assignment, the Consent, the Trust Agreement, the Participation Agreement, the CSA, the CSA Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held in trust by the Trustee under the Trust Agreement or by the Vendor under the CSA (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); *excluding, however:* (i) Taxes of the United States or of any state or political subdivision thereof and (if and to the extent that any person is indemnified by the Lessee pursuant to Paragraph 9 of the Participation Agreement) of any foreign country or of any subdivision thereof, imposed on or measured solely by the net income or excess profits of the Trustee (in its individual capacity), the Owner, the Investor or the Vendor (in its individual capacity), other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by the Owner or any transfer or disposition by the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence or an Event of Default shall have occurred and be continuing; (iii) any Taxes imposed on or measured by any trustee or agency fees received by the Trustee or the Vendor; and (iv) Taxes which are imposed on or measured solely by the net income of the Trustee, the Investor or the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Lessee has not agreed to pay or indemnify against pursuant to this § 6; *provided, however,* that the Lessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the next succeeding paragraph. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or political subdivision thereof, or of any foreign country or subdivision thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; *provided, however,* that the Lessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such

indemnified party in any such proceeding or action) without the prior written consent of such indemnified party. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such indemnified party shall pay to the Lessee the amount of such refund or interest net of expenses; *provided, however,* that no Event of Default and no event which, with notice or lapse of time or both, would constitute an Event of Default shall have occurred and be continuing.

In case any report or return is required to be made with respect to any obligation of the Lessee under this § 6 or arising out of this § 6, except obligations resulting from the second sentence of the first paragraph of this § 6, the Lessee shall either make such report or return in such manner as will show the interests of the Trustee in the Units, or shall promptly notify the Trustee, the Owner and the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Trustee, the Vendor and the Owner. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

All the obligations of the Lessee under this § 6 shall survive and continue, but only with respect to periods included in the term of this Lease, notwithstanding payment in full of all amounts due under the CSA or the termination of this Lease. All amounts payable by the Lessee pursuant to this § 6 shall be payable directly to the indemnified party entitled to indemnification, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the CSA or a guarantee of the residual value of the Equipment.

The Lessee shall furnish promptly, upon request, such information and data as are normally available to the Lessee and which the Trustee, the Vendor or the Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§7. *Payment for Casualty Occurrences; Insurance.* In the event that any of the Units shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease, (any such occurrence being hereinafter called "Casualty Occurrence") during the term of this Lease or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Lessee shall promptly and fully notify the Trustee and the Vendor with respect thereto. On the rental payment date (not earlier than the first regular Basic Rental payment date) next succeeding the delivery of such notice (or, in the event such Basic Rental payment date will occur within 15 days after delivery of notice, on the following Basic Rental payment date, or, in the event the term of this Lease has already expired or will expire within 15 days after delivery of such notice, on a date within 15 days of such delivery) ("Casualty Payment Date"), the Lessee shall pay to the Trustee an amount equal to the rental payment or payments in respect of such Unit due and payable on such Casualty Payment Date plus a sum equal to the Casualty Value of such Unit as of the Basic Rental payment date which first follows the actual date of the Casualty Occurrence (regardless of the date on which the determination that such Unit suffered the Casualty Occurrence is made) (such Basic Rental payment date being hereinafter called "Calculation Date"). Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the Casualty Payment Date, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Trustee shall be entitled to recover possession of such Unit.

If the Casualty Payment Date shall be after the term of this Lease in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term, but, in addition to paying the Casualty Value for such Unit, the Lessee shall pay interest thereon from the end of such term to the

Casualty Payment Date at the prime rate of interest which Manufacturers Hanover Trust Company charges on the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing.

The Trustee hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Trustee and is not in default hereunder or an event which after notice or lapse of time or both would become a default hereunder, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Trustee.

The Casualty Value of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite such date.

In the event of the requisition for use by the United States Government of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall at the time of such requisition be scheduled to extend beyond the then remaining term of this Lease, all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Trustee pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease; but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments received by the Trustee or the Lessee from the Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Trustee or the Lessee from the Government for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Trustee.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee shall at all times while this Lease is in effect maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Units at the time subject hereto, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against risks customarily insured against by the Lessee on similar equipment owned by it. The Owner may at its own expense maintain property and casualty insurance in respect of the Units.

The Lessee will, at all times prior to the return of the Equipment to the Trustee in accordance with the terms of this Lease, at its own expense, cause to be carried and maintained public liability insurance, in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it.

§8. *Reports.* On or before April 1 in each year, commencing with the calendar year 1980, the Lessee will furnish to the Trustee, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the CSA, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information

regarding the condition and state of repair of the Units as the Trustee or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and the CSA have been preserved or replaced. The Trustee shall have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Trustee may request during the continuance of this Lease.

The Lessee agrees at its expense to prepare and deliver to the Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Trustee) any and all reports (other than income tax returns) to be filed by the Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Trustee or the Vendor of the Units or the leasing thereof to the Lessee.

§9. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification.* NEITHER THE TRUSTEE NOR THE OWNER MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE TRUSTEE NOR THE OWNER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Trustee and the Lessee, are to be borne by the Lessee; but the Trustee hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease, so long as no Event of Default shall have occurred and be continuing, to assert and enforce from time to time, in the name of and for the account of the Trustee and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Trustee may have against any Builder. The Trustee and the Owner shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Trustee that the Units described therein are in all the foregoing respects satisfactory to the Lessee; and the Lessee will not assert any claim of any nature whatsoever against the Trustee or the Owner based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Trustee, the Owner and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which operations involving the Units may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent being hereinafter called "Applicable Laws") and in the event that Applicable Laws require any alteration, replacement, modification or addition of or to any part of any

Unit, the Lessee will fully conform therewith at its own expense; *provided, however,* that the Lessee may upon written notice to the Trustee and the Vendor, in good faith, contest the validity or application of any such Applicable Laws in any reasonable manner which does not, in the opinion of the Trustee or the Vendor, adversely affect the property or rights of the Trustee or the Vendor, respectively, under this Lease or under the CSA.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted.

The term "Units" as used in this Lease shall not include any special devices, racks (including, but not limited to, automobile-carrying superstructures) or assemblies at any time attached to any Unit, the cost or purchase price of which is not included in the Purchase Price of the Units or the title to which is in a person other than the Trustee (all of which are hereinafter called "Property Owned by Others"). The Trustee and the Lessee recognize that such special devices, automobile-carrying superstructures and other assemblies may be attached to the Units and may be owned and financed by persons other than the Trustee or the Lessee. The Trustee expressly acknowledges, for the purpose of assurance of any such persons and for the purpose of inducing attachment of such special devices, automobile-carrying superstructures and other assemblies to the Units, that the Trustee has no rights therein and that such persons may, at their own cost and expense, upon written notice to the Trustee and the Vendor, remove such special devices, automobile-carrying superstructures and other assemblies from the Units. The Lessee represents and warrants that it will, at the time of termination of this Lease (i) cause all Property Owned by Others to be removed from the Units, (ii) repair all damage, if any, caused by such removal, and (iii) after such removal, the value or utility of the Unit to which it was attached will not be diminished or impaired from what such value or utility would have been if such Property of Others had not been attached thereto. The Lessee and its affiliates, at their own cost and expense, may from time to time make such other alterations, modifications and additions at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the United States Department of Transportation or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit (hereinafter collectively called "Additions") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease; *provided, however,* that no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such Addition not been made.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of a Unit shall without further act vest in the Trustee and be subject to a valid first lien and prior perfected security interest under the CSA in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of such Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for any such original Part, (ii) such Part is required to be incorporated in or installed as part of such Unit pursuant to the terms of the second or third paragraph of this § 9, or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from such Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all

other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Lessee shall pay, and shall protect, indemnify and hold the Trustee, the Owner, the Investor and the Vendor and their respective successors, assigns, agents and servants (hereinafter called "Indemnified Persons") as third party beneficiaries hereof, harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses [including without limitation attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or by statute imposed; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease (except by the Trustee) or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Trustee's obligations under the Lease Assignment, the CSA or the Participation Agreement, except to the extent such claim arises from an act or omission of the Trustee; or (viii) any claim arising out of the Vendor's holding a security interest under the CSA or the Lease Assignment (all of which matters hereinabove set forth in this paragraph being hereinafter called "Indemnified Matters"); *except, however,* in the case of any Builder, (i) any losses, damages, injuries, liabilities, claims and damages whatsoever arising out of any tort by such Builder, or out of any breach of warranty or failure to perform any covenant under the CSA by such Builder and (ii) any matter covered by such Builder's warranty of material and workmanship and patent indemnification referred to in Item 3 of Annex A to the CSA. All payments hereunder shall be made directly to the Indemnified Person. The Lessee shall be obligated under this § 9, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 9 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this § 9, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by

reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 9 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, it shall be subrogated to any right of such Indemnified Person in respect of the Indemnified Matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any Indemnified Matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this § 9 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such matter.

The Lessee further agrees to indemnify, protect and hold harmless each Builder, as third party beneficiaries hereof, from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against such Builder because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by the applicable Builder or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by such Builder which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to the applicable Builder of any claim known to the Lessee from which liability may be charged against such Builder under the CSA.

The indemnities contained in this § 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by any Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the CSA or a guarantee of the residual value of the Equipment.

§10. *Default.* If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an "Event of Default") shall occur:

A. payment of any part of the rental provided in § 3 or § 13 hereof or payment in respect of any Casualty Occurrence pursuant to § 7 hereof shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for five business days after such payment is due; or

B. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement or the Consent, and such default shall continue for 30 days after written notice from the Trustee or the Vendor to the Lessee specifying the default and demanding that the same be remedied; or

C. any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease, the Participation Agreement or the Consent 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 readjustments of the obligations of the Lessee hereunder, under the Participation Agreement or under the Consent),

and, unless such proceedings 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 Lessee under this Lease, under the Participation Agreement or under the Consent, as the case may be, shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such a trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

D. an event of default set forth in Article 15 of the CSA shall have occurred resulting directly from any default by the Lessee in performing any of its obligations hereunder or under the Participation Agreement;

then, in any such case, the Trustee at its option, may,

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease with respect to any or all of the Units, whereupon all rights of the Lessee to the use of such Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Trustee may by its agents enter upon the premises of the Lessee or other premises where any of such Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Trustee shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) in respect of such Units and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Trustee, in its sole discretion, shall specify: (x) a sum with respect to each such Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Trustee reasonably estimates to be obtainable for each such Unit during such period, such present value to be computed in each case on the basis of a 9⅞% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Trustee shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount equal to the excess, if any, of the Casualty Value of each such Unit as of the rental payment date on or next preceding the date of termination over the amount the Trustee reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; *provided, however,* that in the event the Trustee shall have sold any such Unit, the Trustee, in lieu of collecting any amounts payable to the Trustee by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand

that the Lessee pay the Trustee and the Lessee shall pay to the Trustee on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Trustee's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Trustee shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Trustee to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Trustee.

The Lessee also agrees to furnish the Trustee, the Owner and the Vendor, promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default hereunder or which, after notice or lapse of time or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this Section, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of his operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

§11. *Return of Units Upon Default.* If this Lease shall terminate in respect of any of the Units pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of such Units to the Trustee and shall give prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each such Unit returned to the Trustee pursuant to this § 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear and modifications, if any, permitted by this Lease excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any such Unit or Units to the Trustee as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Trustee and there assembled,

(b) furnish and arrange for the Trustee to store such Units on any lines of railroad or premises approved by the Trustee until such Units have been sold, leased or otherwise disposed of by the Trustee, and

(c) cause such Units to be moved to such interchange point or points as shall be designated by the Trustee upon any sale, lease or other disposal of all or any of such Units.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee (and the Lessee will during this period maintain the insurance required by § 7 of this Lease to be maintained) and are of the essence of this Lease; and, upon application to any court of equity having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will permit the Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Unit, to inspect the same. In the event that any of the Units are sold, the Lessee shall pay to the Trustee the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Trustee as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

§12. *Assignment; Possession and Use.* This Lease shall be assignable in whole or in part by the Trustee without the consent of the Lessee; but the Lessee shall be under no obligation to any assignee of the Trustee other than the Vendor except upon written notice of such assignment from the Trustee. All the rights of the Trustee hereunder and obligations of the Lessee (including, but not limited to, the rights under §§ 6, 7 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Owner and the Owner's and the Trustee's assigns.

So long as no Event of Default or event of default exists hereunder or under the CSA and the Lessee shall have fully complied with the provisions of this § 12, the Lessee shall be entitled to the possession of the Units and also to sublease the Units to, or to permit their use under the terms of car contracts by, a sublessee or user incorporated in the United States of America (or any State thereof or the District of Columbia) or Canada (or any Province thereof), upon lines of railroad owned or operated by a railroad company or companies incorporated in the United States of America (or any State thereof or the District of Columbia) or Canada (or any Province thereof), or over which such railroad company or companies have trackage rights or rights for operation of their trains, and upon connecting and other carriers in the usual interchange of traffic in the continental United States, only upon and subject to all the terms and conditions of this Lease; *provided, however,* that if the Lessee subleases or permits the use of any Unit in Canada (or any Province or Territory thereof), the Lessee shall, except as otherwise provided in § 15 hereof, first have (a) taken all necessary action to protect the right, title and interest of the Trustee and the Vendor in the Units to be so subleased or used and (b) furnished the Trustee and the Vendor with an opinion of Canadian counsel satisfactory to the Trustee and the Vendor to the effect that such action is all that is necessary to protect the right, title and interest of the Trustee and the Vendor in such Units; *provided, further,* that no Units shall be used predominantly outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee sublease the Units to, or permit their use by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of such Code.

Any such sublease may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Units included in such sublease and the use thereof; *provided, however,* that every such sublease shall be subject to the rights and remedies of the Vendor under the CSA and the Trustee under this Lease in respect of the Units covered by such sublease upon the occurrence of an event of default thereunder or an Event of Default hereunder.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease or car contract as aforesaid and other than an encumbrance resulting from claims against the Trustee or the Vendor not related to the ownership or leasing of, or the security interest of the Vendor in, the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interest of the Trustee, the Owner, the Vendor or the Lessee therein. The Lessee shall not, without the prior written consent of the Trustee, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of this § 12.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any solvent corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Lessee hereunder, under the Consent and under the Participation Agreement by an appropriate instrument in writing) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition be in default under any provision of this Lease.

§13. *Renewal Options and Right of First Refusal.* The Trustee intends to retain the Units for re-lease at the expiration of the term of this Lease. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Trustee not less than six months prior to the end of the original term of this Lease elect to extend the term of this Lease in respect of all, but not fewer than all, of the Units then covered by this Lease for one additional four-year period commencing on the scheduled expiration of the original term of this Lease, at a semiannual rental equal to 2.0852% of the Purchase Price of each such Unit; such rental is payable in arrears on January 15 and July 15 in each year of the extended term of this Lease.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Trustee not less than six months prior to the end of the term of this Lease as extended pursuant to the first paragraph of this § 13, elect to extend the term of this Lease in respect of all but not fewer than all of the Units then covered by this Lease, for two additional five-year periods commencing on the scheduled expiration of the extended four-year term of this Lease or the first such five-year extended term, as the case may be, at a "Fair Market Rental" payable in semiannual payments on the semiannual anniversaries of the expiration of the preceding extended term.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Trustee and the Lessee are unable to agree upon a determination of the Fair Market Rental, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his appointment. The determination of Fair Market

Rental of the appraiser appointed pursuant to this paragraph shall be final. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

In the event that the Lessee shall in its reasonable judgment determine that it is not economically feasible for the Lessee to comply with the provisions of the second paragraph of § 9 hereof or clause (iii) of the first paragraph of § 14 hereof during any extended term of this Lease as extended pursuant to the provisions of the second paragraph of this § 13 with respect to any Unit, the Lessee shall have the right at its option, on at least 30 days' prior written notice to the Trustee, to terminate this Lease as to such Unit (subject to the provisions for the survival of indemnification obligations contained in § 6 and 9 hereof) as of the next scheduled rental payment date during such extended term upon payment to the Trustee of the present value as of such date of termination of the remaining rental for such Unit during such extended term with the semiannual rentals discounted semiannually at an annual rate of 9⅞%; and the Lessee shall return such Unit to the Trustee as soon as reasonably practical.

Provided the Lessee exercises the renewal option provided in the first paragraph of this § 13, and provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, and provided that the Lessee has not exercised any renewal option pursuant to the provisions of the second paragraph of this § 13, in the event the Trustee elects to sell any of the Units to third parties at the expiration of the term of this Lease as extended pursuant to the first paragraph of § 13 hereof, the Lessee, at its written request, shall be given written notice of such intention prior to the expiration of the term of this Lease as so extended. In the event that the Trustee shall receive, prior to 45 days after the expiration of said term of this Lease, a bona fide offer in writing from another party to purchase such Units and the Trustee elects to sell such Units pursuant to such offer at the expiration of the term of this Lease as extended pursuant to the first paragraph of this § ~~14~~ 13, the Trustee shall give written notice to the Lessee of such offer. Such notice shall be given to the Lessee on any date not earlier than 135 days prior to, and not later than 45 days after, the expiration of said term of this Lease, and shall include the price offered by the other party in writing to the Trustee. The Lessee shall have the sole right and option, for a period of 20 days from the date of receipt of such notice, to purchase such Units for cash at the price at which the Units are proposed to be sold (which shall not be less than the fair market value thereof). The Lessee shall exercise such purchase right by delivery to the Trustee of a written notice specifying a date of purchase, which date shall not be later than the later of (i) 15 days after the date of receipt of such notice by the Lessee to the Trustee or (ii) 45 days after the expiration of said term of this Lease. In the event that the Lessee shall have delivered a notice of its election to purchase such Units, this Lease (including the obligation to pay rent) shall be further extended upon the same terms and conditions set forth herein from the date such notice is delivered to the Trustee until the date of such purchase.

§14. *Return of Units upon Expiration of Term.* On or prior to the termination of the term of this Lease or as soon as practicable on or after the termination of the term of this Lease and in any event not later than 90 days after the termination of the term of this Lease the Lessee will, at its own cost and expense, at the request of the Trustee, cause each of the Units to be transported to such point or points as shall be reasonably designated by the Trustee immediately prior to such termination and arrange for the Trustee to store such Unit on any lines of railroad or premises approved by the Trustee for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 90 days from the date at which at least 90% of the Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of the Units to be at the expense and risk of the Lessee, and the Lessee will during this period maintain the insurance required by § 7 of this Lease to be maintained. During any such storage period the

Lessee will permit the Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of such Unit or Units, to inspect the same; *provided, however,* that the Lessee shall not be liable except in the case of negligence or intentional act of the Lessee or of its employees or agents and, except to the extent otherwise provided by law, for any injury to or the death of any person exercising, either on behalf of the Trustee or any prospective purchaser or lessee, the rights of inspection granted under this sentence. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Trustee pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Trustee pursuant to § 9 hereof and have removed therefrom at Lessee's expense any Part or Addition title to which is in the Lessee or any other person pursuant to such § 9 and any Property Owned by Others and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. If any of the Units suffers a Casualty Occurrence during any storage period provided for in this § 14, the Lessee shall pay to the Trustee the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of this Lease as to such Unit, belong to and be the property of the Trustee. In the event that by the 90th day after the termination of the original or any extended term of this Lease the Lessee has not, at the request of the Trustee, caused at least 90% of the Units to be transported to such point or points as shall have been designated by the Trustee pursuant to this § 14, the Lessee shall pay to the Trustee the per diem interchange multiplied by the number of such Units equal to the difference between 90% of such Units and the number of such Units previously delivered pursuant to this § 14 (such number to be determined on each day) for each day from such 90th day to the date on which at least 90% of such Units have been so transported. If, after the termination of the storage period provided in this § 14, any of such Units have not been so transported, the Lessee shall pay to the Trustee the per diem interchange for each such Unit not so transported for each day after the end of such storage period until such Unit or Units have been so transported.

Upon the expiration of the original term of this Lease on January 15, 1996, if the Lessee shall decide not to exercise the renewal option provided by the first paragraph of § 13 hereof, the Lessee will deliver to the Trustee a certificate of an officer of the Lessee to the effect that (a) no Event of Default or any event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of January 15, 1996; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against the Trustee or the Owner) were, as of January 15, 1996, imposed on or with respect to any Unit, any accession thereto, or the interest of the Trustee or the Owner therein; (c) the Units have been returned to the Trustee pursuant to this § 14 in the same operating order, repair and condition required by the first paragraph of this § 14 and (d) the Lessee no longer has any interest in the Units under the Lease or otherwise. If a certificate of an officer of the Lessee is required to be furnished pursuant to the preceding sentence, the certificate described in clause (a) in the preceding sentence shall be furnished on January 15, 1996, and the certificates described in clauses (b), (c) and (d) in the preceding sentence shall be furnished on a monthly basis, beginning on February 15, 1996, and such certificate shall cover each such Unit returned during the preceding 30 calendar days and shall apply to each such Unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this § 14. Upon the expiration of any extended term of this Lease, if the Lessee shall decide not to exercise any further renewal option, or if the Lessee shall have no such further renewal option, the Lessee shall deliver to the Trustee a certificate of an officer of the Lessee to the foregoing effect, with such conforming changes as shall be appropriate under the circumstances.

§15. *Recording.* The Lessee, at its own expense, will cause this Lease, the CSA, the CSA Assignment, the Lease Assignment and any assignment hereof or thereof to be filed with the Interstate Commerce Commission pursuant to 49. U.S.C. § 11303(a). The Lessee will, at its own expense, undertake the filing, registering, deposit, and recording required of the Trustee under the CSA and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, re-register, deposit and redeposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA or the Lease Assignment; *provided, however,* that the Lessee shall not be required to take any such action in respect of any jurisdiction outside the United States if (1) the Lessee deems such action to be unduly burdensome, (2) after giving effect to the failure to take such action, the Lessee has taken all action required by law to protect the title of the Trustee to and the security interest of the Vendor in Units having a Fair Value (as defined in Article 7 of the CSA) of not less than 85% of the aggregate Fair Value of all the Units then subject to this Lease, and (3) any Unit at any time located in such jurisdiction shall have been marked with the markings specified in § 5 hereof.

The Lessee will promptly furnish to the Vendor and the Trustee evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Trustee. This Lease and the CSA shall be filed with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§16. *Provisions Concerning Subordinated Notes.* It is the intention of the parties hereto, and the Lessee hereby represents and warrants to such effect, that the obligations of the Lessee under this Lease shall be superior in right of payment to all the Lessee's Thirty-Year Subordinated Notes sold or to be sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between the Lessee and certain of its stockholders. The Lessee agrees that if an Event of Default exists hereunder or an event of default exists under the CSA or any event which, with the giving of notice or the lapse of time, or both, would constitute such an Event of Default or an event of default, shall have occurred and be continuing, the Lessee will not voluntarily prepay or retire any of such Notes.

The Lessee agrees not to merge or consolidate with any other corporation unless the survivor of such merger or consolidation shall be a solvent corporation organized under the laws of the United States of America or a State thereof or the District of Columbia and such survivor (if not the Lessee) shall assume all the obligations and liabilities of the Lessee hereunder, under the Participation Agreement and under the Consent.

§17. *Increase of User Rates.* The Lessee covenants and agrees, in addition to and not in limitation of any other remedies of the Trustee hereunder or otherwise, (i) that, if an Event of Default exists under clause A of § 10 hereof by reason of the failure of the Lessee to pay within the grace period provided in clause A of § 10 hereof all or any part of the rentals due and payable under § 3 hereof (but not including amounts payable by reason of acceleration of the date of payment thereof), the Lessee shall, upon written notice by the Trustee so to do, within ten days after receipt of such notice, deliver to all parties to its Form A and Form B car contracts (or such other forms as may hereafter be used in substitution or in replacement of such Form A and Form B car contracts) due and proper notice of increases in the car user charges under such contracts, (ii) that all car contracts covering any unit or units of railroad equipment of which the Lessee is the owner or the lessee will contain provisions permitting the Lessee to require such increases and (iii) that, except in connection with an assignment or transfer in accordance with the provisions of the CSA, the Lessee will not assign or transfer its rights and obligations to require such increases under any such car

contracts. Such increases shall commence to accrue and shall be effective on the first day of the first calendar month beginning subsequent to ten days after delivery of such notice by the Lessee to the parties to such car contracts. Such increases shall be in such amounts or percentages as will cause to accrue and be payable to the account of the Lessee in respect of the first calendar month during which they are in effect such additional sums of money as will be needed by the Lessee to enable it to pay as rental hereunder an amount equal to all such overdue rentals (with interest on overdue rentals equal to 10⅞% per annum, to the extent that it shall be legally enforceable) and, to cure any defaults in payment of any principal or interest or rentals payable under comparable provisions of any other equipment trust, conditional sale or other equipment agreement or lease of the Lessee not guaranteed jointly and severally by its shareholders or a group of its shareholders (except defaults arising by reason of acceleration of the date of payment of installments of principal, dividends or interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Lessee relating to the use of its cars. If for any reason any such increases so made by the Lessee shall fail to provide in 90 days sufficient cash to enable the Lessee to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Lessee shall, upon receipt of written notice from the Trustee so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Lessee to cure all such defaults hereunder and under such other agreements.

§18. *Obligations of Trustee Under CSA; Additional Rentals.* In the event that the Trustee shall become obligated to make any payment (other than payments in settlement for any Unit or the principal of or interest on the CSA Indebtedness in respect thereof pursuant to the CSA and pursuant to the proviso to the third paragraph of Article 12 thereof) or to perform any obligations pursuant to the CSA not covered by the provisions of this Lease, the Lessee shall pay such additional rentals hereunder and perform such obligations so that all of the Trustee's obligations (other than as aforesaid) pursuant to the CSA shall be fully complied with, without regard for any limitation of liability of the Trustee contained in the CSA.

§19. *Trustee's Right to Perform for the Lessee.* If the Lessee fails to perform or comply with any of its agreements contained herein, the Trustee may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Trustee incurred in connection with such performance or compliance, together with interest on such amount at the rate of 10⅞% per annum, shall be payable by the Lessee upon demand.

§20. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to interest at a rate of 10⅞% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§21. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when delivered to such other party or deposited in the United States mails, first-class postage prepaid, addressed as follows:

if to the Trustee, at 79 South Main Street, Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department;

if to the Lessee, at 300 South Wacker Drive, Chicago, Illinois 60606, attention of Vice President—Finance;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party.

Any notice to the Lessee by the Vendor or the Investor regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Trustee.

§22. *Trustee Acting as Trustee.* The representations, undertakings and agreements herein made on the part of the Trustee are made and intended for the purpose of binding only the Trust Estate as such term is defined in the Trust Agreement.

Whenever the term Trustee is used in this Lease it shall apply and refer to the Trustee, as trustee under the Trust Agreement, and any successor or assignee of the Trustee, in such capacity.

§23. *No Recourse.* No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Trustee, the Vendor or the Lessee, or against the Owner, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, as such, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

It is expressly agreed by the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by the financial institution acting as Trustee hereunder, or for the purpose or with the intention of binding said financial institution personally, but are made and intended for the purpose of binding the Trust Estate, and this Lease is executed and delivered by the Trustee solely in the exercise of the powers expressly conferred upon the Trustee under the Trust Agreement; and that no personal liability or responsibility is assumed by or shall at any time be asserted or enforceable against said financial institution or the Owner on account of any representation, undertaking or agreement hereunder of said financial institution, acting in its capacity as Trustee, or the Owner, either expressed or implied; all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee; *provided, however,* that the Lessee or any person claiming by, through or under the Lessee making claim hereunder, may look to the Trust Estate for satisfaction of the same.

§24. *Severability; Effect and Modification of Lease; Third Party Beneficiaries.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof; and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Trustee and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Trustee and the Lessee.

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Owner, the Builders, the Vendor, the Investor and the permitted successors and assigns of a party, each of which shall be deemed to be a third party beneficiary hereof and the Builders shall be considered to be included within the term Vendor to the extent of their respective interests, if any, in the CSA Indebtedness under the CSA) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.