

PEPPER, HAMILTON & SCHEETZ
ATTORNEYS AT LAW
123 SOUTH BROAD STREET
PHILADELPHIA, PENNSYLVANIA 19109

SUITE 200
1776 F STREET, N. W.
WASHINGTON, D. C. 20006
202-467-6500
P. O. BOX 1181
10 SOUTH MARKET SQUARE
HARRISBURG, PA. 17108
717-233-8483
NUMBER ONE RADNOR STATION
KING OF PRUSSIA ROAD
RADNOR, PA. 19087
215-687-8440

7-159A058

215-545-1234
CABLE ADDRESS
"PEPPER PHILADELPHIA"

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Date JUN 8 1977
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RECORDATION NO. 8850 Filed & Recorded

JUN 8 1977-1 55 PM June 7, 1977

RECORDATION NO. 8850-A Filed & Recorded

JUN 8 1977-1 55 PM

Robert L. Oswald, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

RECORDATION NO. 8850-B INTERSTATE COMMERCE COMMISSION Filed & Recorded

JUN 8 1977-1 55 PM

Dear Sir:

INTERSTATE COMMERCE COMMISSION

8850-C Filed & Recorded

I am sending you herewith for filing in your Office pursuant to Section 20c of the Interstate Commerce Act, six counterparts of each of the following:

- (a) Conditional Sale Agreement dated as of June 1, 1977, between Whitehead & Kales Company and Equilease Corporation, covering the purchase by Equilease Corporation of the 100 auto racks for use in interstate commerce;
- (b) Agreement and Assignment also dated as of June 1, 1977, between Whitehead & Kales Company and Girard Trust Bank, as Agent, pursuant to which Whitehead & Kales Company assigns to Girard Trust Bank the former's interest in the Conditional Sale Agreement and in the auto racks;
- (c) Lease of Railroad Equipment dated as of June 1, 1977, between Chicago, Milwaukee, St. Paul and Pacific Railroad Company and Equilease Corporation, pursuant to which the auto racks are leased to the Milwaukee Railroad Company; and
- (d) Lease Assignment also dated as of June 1, 1977, between Equilease Corporation and Girard Trust Bank, as Agent, pursuant to which Equilease Corporation assigns to the Agent the former's interest in the Lease.

Susan Freund Adland
8850, 8850-A, 8850-B, 8850-C

Robert L. Oswald

-2-

June 7, 1977

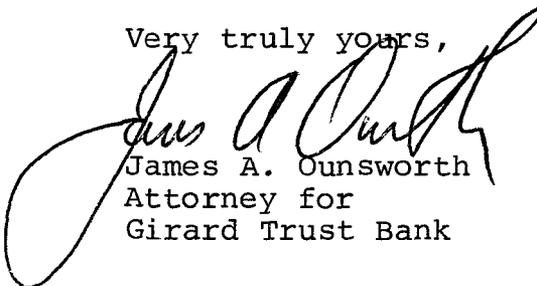
There is also enclosed check in the amount of \$100.00 for the recordation fees. The names and addresses of the parties to the transaction are as follows:

Vendor:	Whitehead & Kales Company 58 Haltiner Street River Rouge, Michigan 48218
Purchaser and Lessor:	Equilease Corporation 750 Third Avenue New York, New York 10017
Lessee:	Chicago, Milwaukee, St. Paul and Pacific Railroad Company 746 Union Station Building 516 W. Jackson Boulevard Chicago, Illinois 60606
Assignee of Conditional Sale Agree- ment and of Lease:	Girard Trust Bank, as Agent Broad and Chestnut Streets Philadelphia, Pennsylvania 19101

The equipment covered by the agreements consists of 100 auto racks bearing Milwaukee identification numbers 58709-58908 inclusive, and marked Milwaukee Road.

Kindly return to the bearer four counterparts of each of the documents.

Very truly yours,



James A. Ounsworth
Attorney for
Girard Trust Bank

JAO:mm
Enclosures

8850-B

LEASE OF RAILROAD EQUIPMENT

Dated as of June 1, 1977

between

**Chicago, Milwaukee, St. Paul and
Pacific Railroad Company**

and

EQUILEASE CORPORATION

[Covering 100 Enclosed Tri-Level Autoracks]

LEASE OF RAILROAD EQUIPMENT

LEASE OF RAILROAD EQUIPMENT, dated as of June 1, 1977, between the CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a Wisconsin corporation (the "Lessee") and EQUILEASE CORPORATION, a New York corporation (the "Lessor").

WHEREAS, the Lessor has entered into a conditional sale agreement dated as of the date hereof (the "Conditional Sale Agreement") with Whitehead & Kales Company, a Michigan corporation (the "Builder"), wherein the Builder has agreed to construct, sell and deliver to the Lessor certain units of railroad equipment described in Schedule A hereto (the "Units" or individually a "Unit"), which Units will be attached to certain new 89'4" TTX LH-21 flush deck flatcars (the "Flatcars") owned by Trailer Train Company, a Delaware corporation;

WHEREAS, the Builder has assigned or will assign its interest in the Conditional Sale Agreement to Girard Trust Bank as agent (the "Agent") pursuant to an agreement and assignment (the "Assignment") dated as of the date hereof, between the Builder and the Agent, a copy of which has been delivered to the Lessor and the Lessee;

WHEREAS, the Lessee desires to lease the Units or such lesser number as are delivered and accepted by it on or before October 1, 1977, at the rentals and for the terms and upon the conditions hereinafter provided;

WHEREAS, to induce the Lessor to purchase the Units and lease them to the Lessee, and to induce the Agent to acquire an interest in the Conditional Sale Agreement, General Motors Corporation, a Delaware corporation, has executed a certain letter (the "Security Document") providing certain assurances with respect to the use of the Units, a copy of which letter is attached hereto as Exhibit A; and

WHEREAS, to provide further security to the Agent the Lessee intends to assign the Security Document to the Agent.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee and the Lessee hereby hires the Units from the Lessor, upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Vendor (as defined in the Conditional Sale Agreement), notwithstanding anything in this Lease to the contrary:

§1. *Financing.* This Lease provides for the lease by the Lessee from the Lessor of the Units delivered to the Lessor prior to October 1, 1977, such Units to be financed pursuant to a finance agreement among the Agent and Industrial Valley Bank & Trust Co. and Union Mutual Life Insurance Co. (the "Investors") dated as of the date hereof.

§ 2. *Delivery and Acceptance of Units.* The Lessor shall purchase all of the Units in two Groups (as defined and set forth in the Conditional Sale Agreement) unless a greater or lesser number of Groups shall be agreed to by the Lessor and Builder.

LEASE OF RAILROAD EQUIPMENT

The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Conditional Sale Agreement. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance (a "Certificate of Acceptance") in accordance with Article 3 of the Conditional Sale Agreement, stating that such Unit has been inspected and accepted on behalf of the Lessee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, subject to the next succeeding sentence, such Unit shall 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 delivery, inspection and acceptance hereunder of any Unit excluded from the Conditional Sale Agreement pursuant to the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such Unit to this Lease.

§ 3. *Rentals.* The Lessee agrees to pay or cause to be paid to the Lessor as rental for each Unit subject to this Lease (i) a payment on a given Closing Date (as that term is defined in the Conditional Sale Agreement) of an amount equal to 3.9404% of the Purchase Price (as that term is defined in the Conditional Sale Agreement) of each Unit in the Group settled on that Closing Date under the Conditional Sale Agreement (ii) a payment on October 1, 1977, equal to .029167% of the Purchase Price of each Unit in the Group settled on said Closing Date under the Conditional Sale Agreement for each day elapsed from and including said Closing Date to and including September 30, 1977, and (iii) 31 consecutive quarterly payments payable January 1, April 1, July 1, October 1 in each year commencing January 1, 1978, in an amount equal to 3.9404% of the Purchase Price of each Unit subject to the Lease on each such date.

All payments provided for in this Lease shall be made for the account of the Lessor, in care of the Agent, at Broad and Chestnut Sts. Philadelphia, Pennsylvania in immediately available funds in Philadelphia; provided that after the Agent shall have notified the Lessee that the Conditional Sale Indebtedness payable under the Conditional Sale Agreement shall have been paid in full, such payments shall be made directly to the Lessor.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent or any other sums due or owing hereunder or payable by Lessee to any person or entity hereunder, 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 Lessor under this Lease or against the Builder or any other person or entity, provided that nothing herein shall be deemed to impair the Lessee's right to assert and sue upon such claims in separate actions; nor, except as otherwise expressly provided herein, shall this Lease terminate or the obligations of the Lessor 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 what-

LEASE OF RAILROAD EQUIPMENT

soever cause, including, without limitation of the foregoing, any dispossession arising from the termination for any reason whatsoever of that certain Form A Car Contract between Trailer Train Company, a Delaware corporation, and the Lessee pursuant to which the Flatcars are leased to the Lessee, 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, 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 Lessor for any reason whatsoever.

§ 4. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on October 1, 1985.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Units, upon default by the Lessee hereunder, are subject to the rights of the Vendor under the Conditional Sale Agreement. If any event of default should occur under the Conditional Sale Agreement, the Agent may terminate this Lease (or rescind its termination), all as provided therein, unless the Lessee is not in default under this Lease.

§ 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 both sides of each Unit, in letters not less than one inch in height, the following: "Girard Trust Bank, Agent, Security Owner", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the respective titles of the Lessor to and property interest in such Units, the Agent's Security Title (as defined in the Conditional Sale Agreement) to such Unit and the rights of the Lessor under this Lease and of the Agent under the Conditional Sale Agreement. The Lessee will not place any such Unit 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 promptly.

LEASE OF RAILROAD EQUIPMENT

any such words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Agent and the Lessor owning said Unit and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Conditional Sale Agreement shall have been filed, recorded and deposited.

The Lessee, at its own expense, will make any changes in the identification marks pursuant to the instructions of the Lessor with respect to the Units to permit the Lessor to comply with Article 14 of the Conditional Sale Agreement.

Except as provided in this § 5, 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 allow the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§ 6. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal, or foreign taxes (other than any United States federal income tax payable by the Lessor in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business) or license fees, assessments, charges, fines and penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "Impositions") hereinafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Conditional Sale Agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all Impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; *provided, however,* that the Lessee shall be under no obligation to pay any Imposition of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Imposition and the nonpayment thereof does not, in the opinion of the Lessor adversely affect the title, property or rights of the particular Lessor hereunder or under the Conditional Sale Agreement. If any Imposition shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor if the Lessor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or the Lessee shall have approved the payment thereof.

LEASE OF RAILROAD EQUIPMENT

In the event that the Lessor shall become obligated to make any payment to the Builder or the Agent or otherwise pursuant to Article 6 of the Conditional Sale Agreement not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely their obligations pursuant to said Article 6.

In the event any reports with respect to Impositions involving any Units are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Agent in such Units or notify the Lessor and the Agent of such requirements and make such reports in such manner as shall be satisfactory to the Lessor and the Agent.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any Imposition, pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

The amount which the Lessee shall be required to pay to the Lessor with respect to any Imposition which is subject to indemnification under this § 6 shall be an amount sufficient to restore the Lessor to the same position, after considering the effect of the receipt of such indemnification on its United States federal income taxes and state and city income taxes or franchise taxes based on net income, that it would have been in had such Imposition not been imposed; *provided, however*, that such amount shall be based upon the reasonable opinion of the Lessor and such opinion of the Lessor is subject to agreement by Lessee. In the event of disagreement between the parties as to any payment the parties agree to submit the calculation of such amounts to one of the eight largest public accounting firms in the United States, chosen by mutual agreement or, in the absence of agreement, to Arthur Andersen & Co. and such firm shall perform the calculation which will be binding on both parties.

§ 7(a). *Payment for Casualty Occurrences; Risk of Loss.* In the event that any Unit shall be or become lost, stolen, destroyed, or, in the opinion of the Lessor or the Lessee, irreparably damaged from any cause whatsoever or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called "Casualty Occurrences") during the term of this Lease, the Lessee shall promptly and fully notify the Lessor and the Agent with respect thereto. On the rental payment date next succeeding the Casualty Occurrence, the Lessee shall pay to the Lessor with respect to such Unit the Casualty Value (as hereinafter defined) of such Unit for the rental payment period during which the Casualty Occurrence took place as determined in accordance with Schedule I hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of loss, theft, complete destruction or return to the Builder of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis and the Lessee may be a purchaser of such Unit. Provided that the Lessee

LEASE OF RAILROAD EQUIPMENT

has previously paid the Casualty Value to the Lessor, 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 Lessor. The Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the Builder pursuant to any patent indemnity provision of the Conditional Sale Agreement an amount equal to any payment made by the Builder to the Vendor in respect thereof under the Conditional Sale Agreement.

The Lessee, at its own expense, will promptly furnish the Lessor a revised schedule of payments of principal and interest thereafter to be made under the Conditional Sale Agreement (or may request that the Agent or other appropriate party furnish such schedule at the Lessee's expense) in such number of counterparts as said Lessor may request, calculated as provided in Article 7 of the Conditional Sale Agreement.

The Casualty Value of each Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule I hereto opposite the number of such rental payment period. For the purposes of this definition, a "rental payment period" with respect to a Unit shall be each three month period ending on a rental payment date, with the exception of the first such period which shall be that period from the Closing Date for such Unit through October 1, 1977.

The Lessee will bear the responsibility for and risk of any damage to or destruction or loss of any Unit. 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 responsibility for and the risk of, any damage or Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

The Lessee hereby assigns any and all rights to receive payment in settlement for destruction of any Unit (hereinafter called the "Settlement") to the Lessor. The Lessor hereby directs the Lessee to collect and receive such Settlement in trust for the benefit of the Lessor, and to pay promptly such Settlement over to the Lessor. The Lessor agrees to apply such Settlement, to the extent received, towards the satisfaction of Lessee's obligation to make payment to the Lessor in respect of a Casualty Occurrence of the Unit or Units for which Settlement is made. In the event that the Lessor receives any insurance proceeds by reason of a Casualty Occurrence, it will credit such proceeds to the Lessee as a payment on account of the Casualty Value of the Units which are the subject of such Casualty Occurrence. In the event the Lessor receives any condemnation award by reason of a Casualty Occurrence, it will credit such award to the Lessee as payment on account of the Casualty Value of the Units which are subject of such Casualty Occurrence. Nothing in this paragraph shall effect Lessee's obligation to make timely payment of the Casualty Value pursuant to the first paragraph of this Section 7.

(b) *Payment of Termination Value.* In the event any Unit becomes obsolete because of the Lessee's inability to use said Unit after employing its best efforts to effect such use, the Lessee may notify the Agent it intends to terminate the Lease and request, pursuant to the operation of

LEASE OF RAILROAD EQUIPMENT

the Security Document, the payment by General Motors Corporation, a Delaware corporation ("General Motors"), of the amount due under the Security Document. Upon the payment of said amount the Lessee shall pay the termination value, which is that percentage of the Purchase Price of such Unit as set forth in Schedule II hereof (the "Termination Value"), to the Agent. The Lessee shall be entitled to credit against such Termination Value the amount paid by General Motors under the Security Document. Upon the payment of the Termination Value to the Agent, the Lease with respect to any Unit for which the Termination Value has been paid will be terminated as though by the operation of subsection 7(a) hereinabove and the Lessee and Lessor shall thereupon have the same rights and responsibilities as they would have had pursuant to the termination of the Lease with respect to any Unit under that subsection. Upon any sale of any Unit, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Termination Value of such Unit, and shall pay any excess to the Lessor.

§ 8. *Annual Reports.* On or before March 31 in each year, but in case of financial statements as promptly thereafter as possible but not later than April 30 in each such year, commencing March 31, 1978, the Lessee will furnish to the Lessor and the Agent (a) an accurate statement setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Conditional Sale Agreement; the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such statement) and such other information regarding the condition and state of repair of the Units as the Lessor or Agent may reasonably request; (b) an accurate statement 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 Article 9 of the Conditional Sale Agreement have been preserved or replaced; (c) a consolidated annual financial report of the Lessee prepared in accordance with generally accepted accounting principles and audited and certified by a recognized public accounting firm, which shall include, without limitation, a statement of income and retained earnings and a balance sheet, all in reasonable detail and satisfactory in scope to the Lessor; (d) a certificate of an officer of the Lessee describing any event during the preceding year which constituted, or with the passage of time will constitute, an Event of Default hereunder or, to the knowledge of the Lessee, an event of default under the Conditional Sale Agreement and, with respect to any event which constituted, or with the passage of time will constitute, an Event of Default, the actions taken, or scheduled to be taken, to correct such event and remedy the Event of Default; and (e) an opinion of counsel for the Lessee that to the best knowledge of such counsel either no additional filings of any nature are required under any federal, state or local law with respect to perfection of title to the Units in the Lessor and the Agent's Security Title (as defined in the Conditional Sale Agreement) or that all requisite filings, specifying same, have been duly made and are in full force and effect. The Lessor, and the Agent shall have the right, by their agents, to inspect the Units and the Lessee's records with respect

LEASE OF RAILROAD EQUIPMENT

thereto at such reasonable times as the Lessor or the Agent may request during the continuance of this Lease.

§ 9. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification.* **THE LESSEE TAKES EACH UNIT HEREUNDER AS IS. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF,** it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; and so long as an Event of Default is not continuing hereunder, the Lessor shall and does hereby irrevocably appoint and constitute the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have under the provisions of Article 13 of the Conditional Sale Agreement. The Lessee's delivery of a Certificate of Acceptance to the Lessor shall be conclusive evidence as between the Lessee and the Lessor that all 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 Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Agent, to comply, and require every user of a Unit 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 its or such user's 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, and in the event that such laws or rules require any alteration of any Unit, or in the event that any equipment or appliance on any such Unit shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on any such Unit in order to comply with such laws or rules, the Lessee will make such alterations, changes, replacements and additions at its own expense; *provided, however,* that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Agent, adversely affect the property or rights of said Lessor or the Agent under this Lease or under the Conditional Sale Agreement.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in good order and repair. Such maintenance shall include

LEASE OF RAILROAD EQUIPMENT

the performance of any overhauls required pursuant to standard and prudent railroad requirements.

The Lessee shall make no improvements or additions to any Unit other than those provided above.

The Lessee agrees to defend, indemnify, protect and hold harmless the Lessor and the Agent and their respective successors and assigns from and against all losses, damages, injuries, liabilities, claims, demands, costs, charges and expenses whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, royalty payments and expenses, patent liabilities, penalties and interest arising out of or as the result of the entering into or the performance of the Conditional Sale Agreement or this Lease, the ownership of any Unit (including without limitation the retention by the Agent of Security Title to any Unit), the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, construction, storage or return of any Unit or any design, system, process, formula, combination, article or material used or contained therein or in the construction thereof or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, whether as a result of negligence, the application of the laws of strict liability, or otherwise except as otherwise provided in § 14 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease. The indemnities required to be paid by the Lessee to the Lessor under this paragraph shall be of an amount sufficient to restore the Lessor to the same position, after considering the effect of the receipt of such indemnities on its United States federal income taxes and state and city income taxes or franchise taxes based on net income that it would have been in had the indemnities not been required; *provided, however*, that such amount shall be based upon the reasonable opinion of the Lessor and such opinion of said Lessor is subject to agreement by Lessee. In the event of disagreement between the parties as to any payment the parties agree to submit the calculation of such amounts to one of the eight largest public accounting firms in the United States, chosen by mutual agreement or, in the absence of agreement, to Arthur Andersen & Co. and such firm shall perform the calculation which will be binding on both parties.

In addition and without limiting the preceding paragraph, the Lessee agrees to defend, indemnify, protect and hold harmless the Builder and the Lessor from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against Builder or the Lessor because of the use in or about the construction or operation of the Units or any part thereof, of any design specified by the Lessee and not developed or purported to be developed by the Builder, or article or material specified by the Lessee and not manufactured by the Builder, which infringes or is claimed to infringe on or which is claimed to constitute contributory infringement with respect to any patent or other right. The term "design" wherever used in this Lease or in any assignment of this Lease shall be deemed to include formulae, systems, processes and combinations.

LEASE OF RAILROAD EQUIPMENT

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

§ 10. *Default.* If one or more of the following events (each such event being hereinafter sometimes called an "Event of Default") shall occur and be continuing:

A. default shall be made in payment of any part of the rental provided in § 3 hereof, in the payment of Casualty Value under § 7 hereof, in the payment of monies due under the Tax Indemnity Agreement between the Lessee and the Lessor dated the date hereof or in the payment of any other monies hereunder, and such default shall continue for five days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

C. the insurance to be maintained by the Lessee under § 20 hereof shall for any reason not remain in full force and effect as therein provided unless comparable substitute insurance satisfactory to the Lessor and the Agent shall be in force;

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

E. a petition for reorganization under Section 77 of the Bankruptcy Act as now constituted or as said Section 77 may be hereafter amended shall be filed by or against the Lessee, and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees, within 30 days after such appointment (whether or not such appointment is subject to confirmation or ratification), if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

F. any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, modification of the obligations of the Lessee under this Lease under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions, 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

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the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the 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 obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment (whether or not such appointment is subject to confirmation or ratification), if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then, in any such case, the Lessor 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, whereupon all rights of the Lessee to the use of the 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 Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any such Units and thenceforth hold, possess, and enjoy the same free from any right of the Lessee, or its successors, or assigns, to use the Units for any purpose whatever. The Lessor shall, nonetheless, 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 90) and also to recover from the Lessee as liquidated damages and not as a penalty (1) that percentage of the Purchase Price of the Units as is set forth on Schedule I hereto opposite the last quarterly period with respect to which the lease rental was paid by the Lessee under this Lease, plus interest at the rate of 13% per annum from the date of the Event of Default to the date of payment thereof less (2) the total net proceeds, if any, paid to Vendor and Vendees (as defined in the Conditional Sale Agreement) following any sale of the Units under the Conditional Sale Agreement or, if there has been no sale, the fair market value of the Units on the date of the Declaration of Default (as defined in the Conditional Sale Agreement) said fair market value to be determined by agreement of the parties, including any assignee of this Lease, or, in the event agreement cannot be reached, in the same manner as set forth in § 13 hereof plus (3) any expenses, including reasonable attorney's fees and the cost of removal of any of the Units from the Flatcars and any reinstallation of the Units on other flatcars, in addition thereto which the Lessor shall have sustained by reason of the breach by the Lessee of this Lease, and of any covenant or covenants of this Lease; *provided, however*, that in the event that sale of any Units is prevented by the order of a court of competent jurisdiction or by any other governmental action, no reduction in the amount owing shall be made

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until such time as the Vendor as defined in the Conditional Sale Agreement receives any "income or proceeds of the Units" as that term is defined in the Conditional Sale Agreement. The amount payable under (1) less (2) shall be paid by the Lessee to the Lessor within 30 days after the date on which such amount is agreed upon or determined hereunder and the amounts payable under (3) shall be payable promptly by the Lessee to the Lessor upon receipt of invoice or invoices therefor.

The remedies in this Lease provided in favor of the Lessor 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 mandatory 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 Lessor and the Lessee agree that the Lessor shall be entitled to all rights provided for in § 77(j) of the Bankruptcy Act or any comparable provision of any amendment thereto, or of any other bankruptcy act, so that the Lessor, to the fullest extent provided by law, shall have the right to take possession of the Equipment upon an Event of Default under this Lease regardless of whether the Lessee is in reorganization.

The failure of the Lessor 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.

Any termination of this Lease or of Lessee's interest in the Equipment and the Lease shall be subject to any rights of the Vendor to affect such termination and the status of the parties hereto.

§ 11. *Return of Units Upon Default.* If this Lease shall terminate pursuant to § 10 hereof, the Lessor may take, or cause to be taken or demand from the Lessee, immediate possession of the Equipment, or one or more of the Units thereof, and may remove the same from possession and use of the Lessee. For such purpose, the Lessor may enter upon the premises of the Lessee or any other premises where the Units may be located and may use and employ in connection with such removal any supplies, services and aids, including but not limited to diesel fuel or other necessary petroleum products, and any available trackage and other facilities or means of the Lessee, with or without process of law.

In case the Vendor (as defined in the Conditional Sale Agreement) shall demand possession of the Units pursuant to the Conditional Sale Agreement and shall designate a reasonable point or points on or near the lines or on the premises of the Lessee for the delivery of the Units to said Vendor, the Lessee shall at its own cost, expense and risk, forthwith and in the usual manner, cause the Units to be moved to such point or points on or near lines or on the premises of the Lessee and shall there deliver the Units or cause them to be delivered to said Vendor. At the

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option of said Vendor, said Vendor may keep the Units on or near any of the lines or on the premises of the Lessee until said Vendor shall have leased, sold or otherwise disposed of the same, whichever first occurs, and for such purpose, the Lessee agrees to furnish, without charge for rent, insurance or storage, the necessary facilities at any point or points selected by said Vendor reasonably convenient to the Lessee.

Subject to the rights of the Vendor in the preceding paragraph, in case the Lessor shall demand possession of the Units pursuant to this paragraph and shall designate a reasonable point or points on or near the lines or on the premises of the Lessee (or on those of its affiliates or to those of any connecting carriers for shipment) for the delivery of the Units to the Lessor, the Lessee shall at its own cost, expense and risk, forthwith and in usual manner, cause the Units to be moved to such point or points on its lines (or on those of its affiliates or to those of any connecting carriers for shipment) and shall there deliver the Units or cause them to be delivered to the Lessor. At the option of the Lessor, the Lessor may keep the Units on or near any of the lines or on the premises of the Lessee until the Lessor shall have leased, sold or otherwise disposed of the same, whichever first occurs, and for such purpose, the Lessee agrees to furnish, without charge for rent, storage, insurance or the necessary facilities at any point or points selected by the Lessor and reasonably convenient to the Lessee.

The assembling, delivery, storage and transportation of the Units as herein provided shall be at the cost, expense and risk (which cost, expense and risk shall include that necessary to remove the Units from the Flatcars and install them on other flatcars) of the Lessee. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, including the Vendor or an authorized representative thereof, or lessee of any such Unit, to inspect the same; *provided, however*, that the Lessee shall not be liable, except in the case of the negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising the rights of inspection granted under this Section.

All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as agents and attorneys of the Lessee with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, 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. This agreement to deliver the Units, furnish facilities, and pay costs as hereinbefore provided is of the essence of the agreement between the parties, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance hereof.

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The Lessee hereby expressly waives any and all claims against the Lessor and its assigns or agents and any and all claims against the Vendor (as defined in the Conditional Sale Agreement) and its assigns or agents for damages of whatever nature in connection with the retaking of any Unit of the Equipment in any reasonable manner.

§ 12. *Assignment; Prohibition Against Liens; Possession and Use.* This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon receipt of written notice of such assignment from the Lessor. All the rights of the Lessor hereunder shall inure to the benefit of the Lessor's assigns. Whenever the term Lessor is used in this Lease it shall include the assignees of the Lessor.

Upon any such assignment, the assignor shall give written notice to the Lessee together with a counterpart copy of such assignment, stating the identity and Post Office address of the assignee.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as hereinafter provided in this § 12. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against the Lessor or the Agent not related to the ownership of the Units), upon or with respect to any Unit, including any accession thereto, or any part thereof or the interest of the Lessor, the Agent or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises; *provided, however*, that the Lessee shall be under no obligation to pay or discharge such claim so long as it is contesting the validity thereof in good faith in a reasonable manner and by appropriate legal proceedings and the nonpayment thereof does not, in the opinion of the Lessor adversely affect the title, property or rights of the Lessor hereunder or under the Conditional Sale Agreement or the title, property or rights of the Agent in or to the Units under the Conditional Sale Agreement. If any such claim shall have been charged or levied by anyone and in any manner against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor, provided that the Lessor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or the Lessee shall have approved the payment thereof. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of or suffer or allow to pass out of its possession or control, any of such Units, except to the extent permitted by this Section 12.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate thereof upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or

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over which railroad equipment of the Lessee, or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units by connecting and other carriers in the usual interchange of traffic or in the transportation thereof from the place of delivery to the Lessee but only upon and subject to all the terms and conditions of the Lease and the Conditional Sale Agreement; *provided, however*, that the Lessee shall not use or permit the use of any Unit in service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

The rights of Lessee under this Lease may not be assigned by the Lessee, except with the prior written consent of the Lessor and the Agent. Nothing contained herein shall prohibit or restrict the right of the Lessee to assign or transfer all of its right hereunder to any corporation, which shall have duly assumed all of such obligations, 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, but in any event only if such corporation will not, upon the effectiveness of such assumption, merger, consolidation or acquisition be in default under any provisions of this Lease.

§ 13. *Renewal Options.* 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 Lessor not less than 6 months prior to the end of the term of this Lease, state that it intends to elect (a) to extend the term of the Lease on the same terms and conditions contained herein except as otherwise provided in this Section in respect to all, but no fewer than all, the Units covered by this Lease for a one year period commencing on the scheduled expiration of the original term, at a rental payable in advance in quarterly payments, each in an amount equal to 1.9702% of the aggregate Purchase Price of the Units under the Lease, such quarterly payments to be made January 1, April 1, July 1 and October 1 in the year of the extended term and with a Casualty Value payment schedule to be negotiated by the Lessee and the Lessor or (b) to purchase all, but not fewer than all, the Units covered by this Lease at the end of such term of this Lease for a purchase price equal to the Fair Market Value as defined hereinafter of such Units as of the end of such term.

In the event that the Lessee exercises its option to extend the initial term of the Lease for a one year period, and provided that this Lease, as extended, has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than 2 months prior to the end of the initial extended term of this Lease, state that it intends to elect (a) to extend the term of the Lease for an additional period of two years on the same terms and conditions contained herein except as otherwise provided in this Section at a then Fair Market Rental as hereinafter defined and a Casualty Value payment schedule to be negotiated by the parties or (b) to purchase all, but not fewer than all, the Units covered by this Lease at the end of such term of the Lease for a purchase price equal to the Fair Market Value as defined hereinafter of such Units as of the end of each such term.

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In the event that the Lessee exercises its option to extend the term of the Lease for such an additional two year period, and provided that this Lease, as extended, has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than 2 months prior to the end of the extended term of two years, state that it intends to elect (a) to extend the term of the Lease for a second period of two years on the same terms and conditions contained herein except as otherwise provided in this Section at a then Fair Market Rental as hereinafter defined and a Casualty Value payment schedule to be negotiated by the parties or (b) to purchase all, but not fewer than all, the Units covered by this Lease at the end of such term of the Lease for a purchase price equal to the Fair Market Value as defined hereinafter of such Units as of the end of each such term.

Fair Market Value and Fair Market Rental shall be determined as soon as feasible upon receipt by the Lessor of notice of the Lessee's aforementioned intention to elect and on the basis of, and shall be equal to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user or lessee (other than (i) a lessee currently in possession and (ii) a used equipment dealer), and an informed and willing seller or lessor under no compulsion to sell or lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or prior to the expiration of the term of this Lease or renewal term, as the case may be, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value or the Fair Market Rental of the Units, such value shall be determined by a qualified independent appraiser selected by the Lessor and approved by the Lessee.

In the event the Lessee elects to purchase the Units, upon payment of the purchase price, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor) for such Units, and such other documents as may be required to release such Units from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

§ 14. *Return of Units upon Expiration of Term.* As soon as practicable on or after the expiration of the term of this Lease with respect to any Unit, the Lessee will (unless the Unit is re-leased to or purchased by the Lessee), at its own cost and expense, at the request of the Lessor deliver possession of such Unit to the Lessor upon or near such tracks or on the premises of the Lessee as the Lessor may reasonably designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on or near such tracks or on the premises of the Lessee for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on or near the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor. The movement, storage removal from the Flatcars and any installation on other

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flatcars of such Unit shall be at the cost, expense and risk of the Lessee, which cost expense and risk shall include that necessary to remove the Units from the Flatcars. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; *provided, however*, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The movement, 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 Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to move, deliver, store and transport the Units.

The Lessee shall return the Units upon the termination of the initial term or any extended term of this Lease in the same operating order, repair and condition as when originally delivered hereunder, ordinary wear and tear excepted.

§ 15. *Lessee's Warranties and Representations.* The Lessee warrants and represents as follows:

A. The Lease, the Purchase Agreement Assignment, the Tax Indemnity Agreement and the acknowledgement to the Lease Assignment have been duly authorized, executed and delivered by the Lessee and constitute valid, legal and binding obligations of the Lessee, enforceable in accordance with their terms;

B. Neither the execution and delivery of this Lease, the Purchase Agreement Assignment, the Tax Indemnity Agreement or the acknowledgement to the Lease Assignment nor the consummation of the transaction herein and therein contemplated or the fulfillment of, or compliance with, the terms and provisions hereof and thereof by the Lessee will conflict with, or result in a breach of, any of the terms, conditions or provisions of any bond, debenture, note, mortgage, indenture, contract or other agreement or instrument to which the Lessee is a party or by which it or its property is bound or will constitute, with the giving of notice or the passage of time or both, a default hereunder or thereunder or will conflict with, or result in a breach of any of the terms, conditions or provisions of any law, regulation, order, judgment or decree of any court or governmental instrumentality.

C. No approval, order or license of the Interstate Commerce Commission or any other governmental authority, federal, state or local, is necessary in order for the Lessor to enter into the Conditional Sale Agreement, this Lease, the Tax Indemnity Agreement or the Lease Assignment or to perform its duties or obligations hereunder or thereunder or such approval as is necessary has been granted and the execution and delivery by the Lessor of such agreements and the performance by it of its obligations thereunder and its ownership of the Units do not subject the Lessor to the jurisdiction of, or regulation by, the Interstate Commerce Commission or any other regulatory authority, federal, state or local and in the event that any such approval, order or license is

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so necessary or that such execution and delivery or performance does so subject the Lessor to any such jurisdiction or regulation solely as a result of the Lessor's ownership of the Units. The Lessee shall not operate or otherwise utilize the affected Units in any and all jurisdictions for which any such approval, order or license is necessary or in which the Lessor shall become subject to such jurisdiction or regulation, until the Lessee shall have either (i) obtained such approvals, orders or waivers thereof or waivers of all such jurisdiction or regulation from the applicable federal, state or local regulatory authority, as the case may be, or (ii) in form and substance satisfactory to the Lessor, indemnified the Lessor from and against any and all claims, liabilities, penalties or damages of any nature which might arise and/or result from the continued operations of the Unit or Units in any and all such jurisdictions, except for claims, liabilities, penalties or damages arising from acts or omissions of the Lessor.

D. The Lessee has the full power and authority and legal right to carry on its principal business as now conducted.

E. There are no actions, suits or proceedings pending or threatened which, if adversely determined against the Lessee, will materially prevent or interfere with its ability or right to perform its duties and obligations under this Lease, the Purchase Agreement Assignment, the Tax Indemnity Agreement and the acknowledgement to the Lease Assignment.

F. The Lessee has not directly or indirectly taken any action and will not take any action the effect of which will bring the sale of the Conditional Sale Indebtedness under the Conditional Sale Agreement or the investment by the Vendees in the Units within the provisions of Section 5 of the Securities Act of 1933, as amended. The Lessee has not offered any rights, claims or indebtedness under the Conditional Sale Agreement or ownership interests in the Units (or any securities similar to any of the foregoing) to, or has solicited any offer to buy any thereof from, any person other than the Vendees and the Investors. The Lessee makes no representations as to activities by Janney, Mortgomery, Scott, Inc. or Radnor Associates, Ltd.

G. The Lessee has furnished to the Investors and the Lessor a consolidated balance sheet, prepared utilizing generally accepted accounting principles, of the Lessee as of December 31, 1976 a related consolidated income statement (income and retained earnings), and an ICC CBS statement (condensed balance sheet) as of December 31, 1976, together with an income statement for the 12 months then ended, both prepared in accordance with the rules of the Interstate Commerce Commission. Such financial statements are in accordance with the books and records of the Lessee and have been prepared in accordance with the respectively applicable accounting principles on a consistent basis throughout the periods covered thereby, and such financial statements fairly present the financial condition of the Lessee at such dates and the results of its operations for such periods. Since December 31, 1976, there have been no changes which, individually or in the aggregate, have been materially adverse to the condition, financial or otherwise, of the Lessee as shown on the balance sheet as of such date, except changes in the ordinary course of business.

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H. Each of the Units, on the date of delivery and acceptance of such Unit with respect thereto as defined in the Conditional Sale Agreement, will have an estimated useful life of at least 12 years and an estimated fair market value at the end of the initial term of this Lease of at least 20% of the Purchase Price of such Unit, without including in such value any increase or decrease for inflation or deflation during such term.

I. As of the Closing Date, with respect thereto as defined in the Conditional Sale Agreement, the Lessee has not directly or indirectly taken any action which would adversely affect the good and marketable title of the Lessor to the Units including, without limitation, any action which would create or result in the creation of any liens, encumbrances and claims of any nature whatsoever against the Units, except only for the rights of the Lessee under this Lease.

J. As of the Closing Date, the Units are free from all claims, liens, security interests and other encumbrances arising at any time on or after the Lessee has accepted delivery of such Units pursuant to § 2 of this Lease other than those created by the Conditional Sale Agreement and any other related documents, the rights of the Lessee under this Lease, and other than those resulting from claims against the Lessor not related to the ownership of the Units.

K. This Lease, the Lease Assignment, the Conditional Sale Agreement and the Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision has been made for publication of notice of such deposit in *The Canada Gazette* in accordance with said Section 86; all filings under the Uniform Commercial Code of the States of New York and Illinois have been effected which are required to perfect the security interest of the Agent and the Lessor in the Equipment; and no other filing, recordation or deposit (or giving of notice) is necessary for the protection of the rights of the Agent or the Vendee under the Conditional Sale Agreement or the Lease in and to the Equipment in any state of the United States of America or in the District of Columbia or under the Lease in Canada or any Province thereof; except that continuation statements must be filed within six months prior to the expiration of any five year period following the respective date of filing of each financing statement.

L. The Lessee represents that it is not entering into this Agreement or the Lease, or any other transaction contemplated hereby or thereby, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it, or, in so far as is known to it, any Investor, the Builder or the Vendee is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

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M. The Lessee represents that it will satisfy the conditions precedent pertaining to it in the Assignment in accordance with the terms set forth therein.

N. The Units as attached to the Flatcars conform with all laws of the jurisdictions in which operations including the Units may extend and with all lawful rules and regulations of the United States Department of Transportation, the Interstate Commerce Commission and any other applicable regulatory body.

§ 16. *Recording; Expenses.* The Lessee will cause this Lease, the Conditional Sale Agreement and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada (notice of such deposit to be given forthwith in *The Canada Gazette* pursuant to Section 86 of the Railway Act of Canada). The Lessee will also make all filings required under the Uniform Commercial Code of the States of Illinois and New York. The Lessee will undertake the filing, registering, depositing, and recording required of the Lessor under the Conditional Sale Agreement and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and re-deposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Agent for the purpose of proper protection, to their satisfaction, of the Agent's and the Lessor's respective interest in the Units, or for the purpose of carrying out the intention of this Lease, the Conditional Sale Agreement or the assignments thereof to the Agent; and the Lessee will promptly furnish to the Agent or the Lessor evidences of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Agent and the Lessor, *provided, however*, that no such opinion of counsel need be furnished in respect of the filing of the Conditional Sale Agreement or the assignment thereof in Canada.

The Lessee will pay all reasonable costs and expenses incident to this Lease and the Conditional Sale Agreement, the first assignments of the Lease and the Conditional Sale Agreement (including the fees and expenses of an agent, if the first assignee is an agent), any instrument supplemental or related hereto or thereto, including all fees and expenses of counsel for the first assignee of the Lease and the Conditional Sale Agreement, but limited to the counsel fees and expenses of counsel for the Agent, special counsel for the Lessor, and Pepper, Hamilton & Scheetz, special counsel for the Investors, and all printing costs.

§ 17. *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 as additional rental, to the extent legally enforceable, an amount equal to 13% per annum of the overdue rentals for the period of time during which they are overdue or such lesser amount as may be legally enforceable. Such interest shall be calculated on a 360 day year of twelve 30 day months.

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§ 18. *Notices.* Any notice required or permitted to be given herein shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

(a) if to the Lessor:

Equilease Corporation
750 Third Avenue
New York, N. Y. 10017
Attn: G. R. Norcera, Senior Vice President

(b) if to the Lessee, at 746 Union Station Bldg., 516 W. Jackson Blvd., Chicago, Ill. 60606, Attn. Vice President—Accounting;

(c) if to the Agent, at Broad and Chestnut Sts., Philadelphia, PA 19101 Attn: Corporate Trust Department,

or addressed to such other address as the Lessor, the Lessee or the Agent shall hereafter furnish to the others in writing.

§ 19. *Severability; Effect and Modification of Lease.* 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 including the Schedules attached hereto completely states the rights of the Lessor and the Lessee with respect to the Units and supercedes all other agreements, oral or written, with respect to the Units. 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 officers of the Lessor and of the Lessee or its duly authorized representative and consented to in writing by the Agent.

§ 20. *Insurance.* The Lessee will self insure with respect to all loss and destruction of, and damage to, any Unit arising out of fire, windstorm, explosion, and all such other similar hazards.

The Lessee will procure and maintain at its expense during the term of this Lease (and any renewals thereof) with insurers satisfactory to the Lessor and the Agent bodily injury and third party property damage insurance for each Unit with liability limits not less than \$21.5 million per occurrence and with a deductible amount not in excess of \$2 million. The policies for such insurance shall (i) name the Lessor and the Agent as additional insureds, as their respective interests may appear, (ii) provide that if the insurers cancel such insurance for any reason whatsoever, or the same is allowed to lapse for non-payment of premium, such cancellation or lapse shall not be effective as to the Lessor or the Agent for thirty (30) days after receipt by the Lessor and the Agent of written notice by the insurers of such cancellation or lapse and (iii) contain no warranties, declarations or conditions which by any action or inaction of the Lessee or any other person (other than of the Lessor or the Agent) would invalidate the interests of the Lessor or the Agent as they appear.

LEASE OF RAILROAD EQUIPMENT

The Lessee shall not materially alter the insurance in effect as of the date hereof and on each Closing Date without the prior written consent of the Lessor and the Agent.

From time to time upon the expiration date of each policy of such insurance, the Lessee shall furnish to the Lessor and the Agent a certificate signed by a firm of independent insurance brokers, appointed by the Lessee and not objected to by the Lessor or the Agent, showing the insurance then maintained by the Lessee pursuant to this § 20 with respect to the Units (and the expiration date of each policy of such insurance) and stating the opinion of said firm that the insurance then carried and maintained on or with respect to the Units complies with the terms hereof. In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor, upon notice to the Lessee, may at its option provide such insurance and, in such event, the Lessee shall, upon demand, reimburse the Lessor for the cost thereof, together with interest thereon at the rate of 13% per annum.

§ 21. *Execution.* This Lease may be executed in several counterparts, but the counterpart delivered to the Interstate Commerce Commission for recordation and subsequently redelivered to the Agent shall be deemed the original counterpart. Although this Lease is dated as of the date first above written, for convenience, 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.

§ 22. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania, *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

§ 23. *Security Document Assignment.* As an inducement to the Investors through the Agent to finance a portion of the aggregate Purchase Price of the Units and other good and valuable consideration, the receipt of which is hereby acknowledged, the Lessee hereby assigns, transfers and sets over to the Agent the Security Document and all of its rights, powers and interests thereunder; *provided, however,* that when all of the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement) and all other sums payable under the Conditional Sale Agreement have been paid or discharged in accordance with the terms thereof and all other covenants and agreements contained therein shall have been performed, all right, title and interest assigned pursuant to this section shall be transferred to the Lessor. General Motors Corporation as of the date hereof has received a copy of this Lease and has acknowledged in the Security Document the assignment of said Document to the Agent in accordance with this Section 23.

LEASE OF RAILROAD EQUIPMENT

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

EQUILEASE CORPORATION
Lessor

by *[Signature]*
Senior Vice President

[CORPORATE SEAL]

Attest:

[Signature: Allen Remick]

The Chicago, Milwaukee, St. Paul and
Pacific Railroad Company
Lessee

[CORPORATE SEAL]

by _____

Attest:

LEASE OF RAILROAD EQUIPMENT

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 7th day of June, 1977, before me personally appeared GERARD R. NOCERA, to me personally known, who being by me duly sworn, says that he is Senior Vice President of Equilease Corporation, that the seal 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.

Saleh M. Obadiah

Notary Public

[NOTARIAL SEAL]

SALEH M. OBADIAH
Notary Public, State of New York
No. 31-8172515
Qualified in New York County
Commission Expires March 30, 1978

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this 7th day of June, 1977, before personally appeared W. L. SMITH, to me personally known, who, being by me duly sworn, says that he is President of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, that the seal 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.

Saleh M. Obadiah

Notary Public

[NOTARIAL SEAL]

SALEH M. OBADIAH
Notary Public, State of New York
No. 31-8172515
Qualified in New York County
Commission Expires March 30, 1978

SCHEDULE A

Type	Builder's Specifications	Quantity	Lessee's Identification Numbers (Inclusive)	Average Unit Price	Total Price	Place of Delivery
Group I	Model AB15153G	60*	58709-	28,591.00	1,715,460	River Rouge,
Group II	Specification ASK6580	40*	58908		1,143,640	Michigan

Total 100 2,859,100

*Each Unit includes Whitehead & Kales radial end doors,
60—Ratchet Lo-Ty's (A-234-786),
60—Idler Assemblies (A-234-760) and 60—Chain Assemblies (C-231-465)

LEASE OF RAILROAD EQUIPMENT

SCHEDULE I

<u>Payment Period</u>	<u>Casualty Loss Value % of Purchase Price</u>	<u>Payment Period</u>	<u>Casualty Loss Value % of Purchase Price</u>
*	105.520	17	70.275
1	107.006	18	67.882
2	107.285	19	65.475
3	106.278	20	56.371
4	104.798	21	53.905
5	102.897	22	51.431
6	100.973	23	48.952
7	99.026	24	46.456
8	97.010	25	43.945
9	94.923	26	41.442
10	92.809	27	38.950
11	90.668	28	29.791
12	81.805	29	27.301
13	79.554	30	24.839
14	77.281	31	22.410
15	74.988	32	20.000
16	72.652	Thereafter	20.000

*That period from the delivery date of a Unit until October 1, 1977.
To this amount shall be added accrued interim rent (as defined in Section 3 of the Lease).

LEASE OF RAILROAD EQUIPMENT

SCHEDULE II

<u>Payment Period</u>	<u>Termination Value % of Purchase Price</u>	<u>Payment Period</u>	<u>Termination Value % of Purchase Price</u>
*	104.903	17	63.244
1	105.503	18	60.340
2	105.139	19	57.385
3	103.763	20	47.694
4	102.000	21	44.598
5	99.892	22	41.451
6	97.746	23	38.250
7	95.561	24	34.981
8	93.288	25	31.642
9	90.927	26	28.252
10	88.519	27	24.810
11	86.063	28	14.633
12	76.863	29	11.054
13	74.250	30	7.426
14	71.589	31	3.747
15	68.880	32	3.592
16	66.099		

*That period from the delivery date of a Unit until October 1, 1977.
To this amount shall be added accrued interim rent (as defined in Section 3 of the Lease).

LEASE OF RAILROAD EQUIPMENT

Dated as of June 1, 1977

between

**Chicago, Milwaukee, St. Paul and
Pacific Railroad Company**

and

EQUILEASE CORPORATION

[Covering 100 Enclosed Tri-Level Autoracks]

LEASE OF RAILROAD EQUIPMENT

LEASE OF RAILROAD EQUIPMENT, dated as of June 1, 1977, between the CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a Wisconsin corporation (the "Lessee") and EQUILEASE CORPORATION, a New York corporation (the "Lessor").

WHEREAS, the Lessor has entered into a conditional sale agreement dated as of the date hereof (the "Conditional Sale Agreement") with Whitehead & Kales Company, a Michigan corporation (the "Builder"), wherein the Builder has agreed to construct, sell and deliver to the Lessor certain units of railroad equipment described in Schedule A hereto (the "Units" or individually a "Unit"), which Units will be attached to certain new 89'4" TTX LH-21 flush deck flatcars (the "Flatcars") owned by Trailer Train Company, a Delaware corporation;

WHEREAS, the Builder has assigned or will assign its interest in the Conditional Sale Agreement to Girard Trust Bank as agent (the "Agent") pursuant to an agreement and assignment (the "Assignment") dated as of the date hereof, between the Builder and the Agent, a copy of which has been delivered to the Lessor and the Lessee;

WHEREAS, the Lessee desires to lease the Units or such lesser number as are delivered and accepted by it on or before October 1, 1977, at the rentals and for the terms and upon the conditions hereinafter provided;

WHEREAS, to induce the Lessor to purchase the Units and lease them to the Lessee, and to induce the Agent to acquire an interest in the Conditional Sale Agreement, General Motors Corporation, a Delaware corporation, has executed a certain letter (the "Security Document") providing certain assurances with respect to the use of the Units, a copy of which letter is attached hereto as Exhibit A; and

WHEREAS, to provide further security to the Agent the Lessee intends to assign the Security Document to the Agent.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee and the Lessee hereby hires the Units from the Lessor, upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Vendor (as defined in the Conditional Sale Agreement), notwithstanding anything in this Lease to the contrary:

§1. *Financing.* This Lease provides for the lease by the Lessee from the Lessor of the Units delivered to the Lessor prior to October 1, 1977, such Units to be financed pursuant to a finance agreement among the Agent and Industrial Valley Bank & Trust Co. and Union Mutual Life Insurance Co. (the "Investors") dated as of the date hereof.

§ 2. *Delivery and Acceptance of Units.* The Lessor shall purchase all of the Units in two Groups (as defined and set forth in the Conditional Sale Agreement) unless a greater or lesser number of Groups shall be agreed to by the Lessor and Builder.

LEASE OF RAILROAD EQUIPMENT

The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Conditional Sale Agreement. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance (a "Certificate of Acceptance") in accordance with Article 3 of the Conditional Sale Agreement, stating that such Unit has been inspected and accepted on behalf of the Lessee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, subject to the next succeeding sentence, such Unit shall 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 delivery, inspection and acceptance hereunder of any Unit excluded from the Conditional Sale Agreement pursuant to the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such Unit to this Lease.

§ 3. *Rentals.* The Lessee agrees to pay or cause to be paid to the Lessor as rental for each Unit subject to this Lease (i) a payment on a given Closing Date (as that term is defined in the Conditional Sale Agreement) of an amount equal to 3.9404% of the Purchase Price (as that term is defined in the Conditional Sale Agreement) of each Unit in the Group settled on that Closing Date under the Conditional Sale Agreement (ii) a payment on October 1, 1977, equal to .029167% of the Purchase Price of each Unit in the Group settled on said Closing Date under the Conditional Sale Agreement for each day elapsed from and including said Closing Date to and including September 30, 1977, and (iii) 31 consecutive quarterly payments payable January 1, April 1, July 1, October 1 in each year commencing January 1, 1978, in an amount equal to 3.9404% of the Purchase Price of each Unit subject to the Lease on each such date.

All payments provided for in this Lease shall be made for the account of the Lessor, in care of the Agent, at Broad and Chestnut Sts. Philadelphia, Pennsylvania in immediately available funds in Philadelphia; provided that after the Agent shall have notified the Lessee that the Conditional Sale Indebtedness payable under the Conditional Sale Agreement shall have been paid in full, such payments shall be made directly to the Lessor.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent or any other sums due or owing hereunder or payable by Lessee to any person or entity hereunder, 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 Lessor under this Lease or against the Builder or any other person or entity, provided that nothing herein shall be deemed to impair the Lessee's right to assert and sue upon such claims in separate actions; nor, except as otherwise expressly provided herein, shall this Lease terminate or the obligations of the Lessor 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 what-

LEASE OF RAILROAD EQUIPMENT

soever cause, including, without limitation of the foregoing, any dispossession arising from the termination for any reason whatsoever of that certain Form A Car Contract between Trailer Train Company, a Delaware corporation, and the Lessee pursuant to which the Flatcars are leased to the Lessee, 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, 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 Lessor for any reason whatsoever.

§ 4. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on October 1, 1985.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Units, upon default by the Lessee hereunder, are subject to the rights of the Vendor under the Conditional Sale Agreement. If any event of default should occur under the Conditional Sale Agreement, the Agent may terminate this Lease (or rescind its termination), all as provided therein, unless the Lessee is not in default under this Lease.

§ 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 both sides of each Unit, in letters not less than one inch in height, the following: "Girard Trust Bank, Agent, Security Owner", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the respective titles of the Lessor to and property interest in such Units, the Agent's Security Title (as defined in the Conditional Sale Agreement) to such Unit and the rights of the Lessor under this Lease and of the Agent under the Conditional Sale Agreement. The Lessee will not place any such Unit 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 promptly

LEASE OF RAILROAD EQUIPMENT

any such words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Agent and the Lessor owning said Unit and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Conditional Sale Agreement shall have been filed, recorded and deposited.

The Lessee, at its own expense, will make any changes in the identification marks pursuant to the instructions of the Lessor with respect to the Units to permit the Lessor to comply with Article 14 of the Conditional Sale Agreement.

Except as provided in this § 5, 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 allow the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§ 6. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal, or foreign taxes (other than any United States federal income tax payable by the Lessor in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business) or license fees, assessments, charges, fines and penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "Impositions") hereinafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Conditional Sale Agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all Impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; *provided, however,* that the Lessee shall be under no obligation to pay any Imposition of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Imposition and the nonpayment thereof does not, in the opinion of the Lessor adversely affect the title, property or rights of the particular Lessor hereunder or under the Conditional Sale Agreement. If any Imposition shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor if the Lessor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or the Lessee shall have approved the payment thereof.

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In the event that the Lessor shall become obligated to make any payment to the Builder or the Agent or otherwise pursuant to Article 6 of the Conditional Sale Agreement not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely their obligations pursuant to said Article 6.

In the event any reports with respect to Impositions involving any Units are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Agent in such Units or notify the Lessor and the Agent of such requirements and make such reports in such manner as shall be satisfactory to the Lessor and the Agent.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any Imposition, pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

The amount which the Lessee shall be required to pay to the Lessor with respect to any Imposition which is subject to indemnification under this § 6 shall be an amount sufficient to restore the Lessor to the same position, after considering the effect of the receipt of such indemnification on its United States federal income taxes and state and city income taxes or franchise taxes based on net income, that it would have been in had such Imposition not been imposed; *provided, however*, that such amount shall be based upon the reasonable opinion of the Lessor and such opinion of the Lessor is subject to agreement by Lessee. In the event of disagreement between the parties as to any payment the parties agree to submit the calculation of such amounts to one of the eight largest public accounting firms in the United States, chosen by mutual agreement or, in the absence of agreement, to Arthur Andersen & Co. and such firm shall perform the calculation which will be binding on both parties.

§ 7(a). *Payment for Casualty Occurrences; Risk of Loss.* In the event that any Unit shall be or become lost, stolen, destroyed, or, in the opinion of the Lessor or the Lessee, irreparably damaged from any cause whatsoever or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called "Casualty Occurrences") during the term of this Lease, the Lessee shall promptly and fully notify the Lessor and the Agent with respect thereto. On the rental payment date next succeeding the Casualty Occurrence, the Lessee shall pay to the Lessor with respect to such Unit the Casualty Value (as hereinafter defined) of such Unit for the rental payment period during which the Casualty Occurrence took place as determined in accordance with Schedule I hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of loss, theft, complete destruction or return to the Builder of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis and the Lessee may be a purchaser of such Unit. Provided that the Lessee

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has previously paid the Casualty Value to the Lessor, 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 Lessor. The Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the Builder pursuant to any patent indemnity provision of the Conditional Sale Agreement an amount equal to any payment made by the Builder to the Vendor in respect thereof under the Conditional Sale Agreement.

The Lessee, at its own expense, will promptly furnish the Lessor a revised schedule of payments of principal and interest thereafter to be made under the Conditional Sale Agreement (or may request that the Agent or other appropriate party furnish such schedule at the Lessee's expense) in such number of counterparts as said Lessor may request, calculated as provided in Article 7 of the Conditional Sale Agreement.

The Casualty Value of each Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule I hereto opposite the number of such rental payment period. For the purposes of this definition, a "rental payment period" with respect to a Unit shall be each three month period ending on a rental payment date, with the exception of the first such period which shall be that period from the Closing Date for such Unit through October 1, 1977.

The Lessee will bear the responsibility for and risk of any damage to or destruction or loss of any Unit. 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 responsibility for and the risk of, any damage or Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

The Lessee hereby assigns any and all rights to receive payment in settlement for destruction of any Unit (hereinafter called the "Settlement") to the Lessor. The Lessor hereby directs the Lessee to collect and receive such Settlement in trust for the benefit of the Lessor, and to pay promptly such Settlement over to the Lessor. The Lessor agrees to apply such Settlement, to the extent received, towards the satisfaction of Lessee's obligation to make payment to the Lessor in respect of a Casualty Occurrence of the Unit or Units for which Settlement is made. In the event that the Lessor receives any insurance proceeds by reason of a Casualty Occurrence, it will credit such proceeds to the Lessee as a payment on account of the Casualty Value of the Units which are the subject of such Casualty Occurrence. In the event the Lessor receives any condemnation award by reason of a Casualty Occurrence, it will credit such award to the Lessee as payment on account of the Casualty Value of the Units which are subject of such Casualty Occurrence. Nothing in this paragraph shall effect Lessee's obligation to make timely payment of the Casualty Value pursuant to the first paragraph of this Section 7.

(b) *Payment of Termination Value.* In the event any Unit becomes obsolete because of the Lessee's inability to use said Unit after employing its best efforts to effect such use, the Lessee may notify the Agent it intends to terminate the Lease and request, pursuant to the operation of

LEASE OF RAILROAD EQUIPMENT

the Security Document, the payment by General Motors Corporation, a Delaware corporation ("General Motors"), of the amount due under the Security Document. Upon the payment of said amount the Lessee shall pay the termination value, which is that percentage of the Purchase Price of such Unit as set forth in Schedule II hereof (the "Termination Value"), to the Agent. The Lessee shall be entitled to credit against such Termination Value the amount paid by General Motors under the Security Document. Upon the payment of the Termination Value to the Agent, the Lease with respect to any Unit for which the Termination Value has been paid will be terminated as though by the operation of subsection 7(a) hereinabove and the Lessee and Lessor shall thereupon have the same rights and responsibilities as they would have had pursuant to the termination of the Lease with respect to any Unit under that subsection. Upon any sale of any Unit, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Termination Value of such Unit, and shall pay any excess to the Lessor.

§ 8. *Annual Reports.* On or before March 31 in each year, but in case of financial statements as promptly thereafter as possible but not later than April 30 in each such year, commencing March 31, 1978, the Lessee will furnish to the Lessor and the Agent (a) an accurate statement setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Conditional Sale Agreement; the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such statement) and such other information regarding the condition and state of repair of the Units as the Lessor or Agent may reasonably request; (b) an accurate statement 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 Article 9 of the Conditional Sale Agreement have been preserved or replaced; (c) a consolidated annual financial report of the Lessee prepared in accordance with generally accepted accounting principles and audited and certified by a recognized public accounting firm, which shall include, without limitation, a statement of income and retained earnings and a balance sheet, all in reasonable detail and satisfactory in scope to the Lessor; (d) a certificate of an officer of the Lessee describing any event during the preceding year which constituted, or with the passage of time will constitute, an Event of Default hereunder or, to the knowledge of the Lessee, an event of default under the Conditional Sale Agreement and, with respect to any event which constituted, or with the passage of time will constitute, an Event of Default, the actions taken, or scheduled to be taken, to correct such event and remedy the Event of Default; and (e) an opinion of counsel for the Lessee that to the best knowledge of such counsel either no additional filings of any nature are required under any federal, state or local law with respect to perfection of title to the Units in the Lessor and the Agent's Security Title (as defined in the Conditional Sale Agreement) or that all requisite filings, specifying same, have been duly made and are in full force and effect. The Lessor, and the Agent shall have the right, by their agents, to inspect the Units and the Lessee's records with respect

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thereto at such reasonable times as the Lessor or the Agent may request during the continuance of this Lease.

§ 9. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification.* **THE LESSEE TAKES EACH UNIT HEREUNDER AS IS. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF,** it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; and so long as an Event of Default is not continuing hereunder, the Lessor shall and does hereby irrevocably appoint and constitute the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have under the provisions of Article 13 of the Conditional Sale Agreement. The Lessee's delivery of a Certificate of Acceptance to the Lessor shall be conclusive evidence as between the Lessee and the Lessor that all 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 Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Agent, to comply, and require every user of a Unit 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 its or such user's 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, and in the event that such laws or rules require any alteration of any Unit, or in the event that any equipment or appliance on any such Unit shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on any such Unit in order to comply with such laws or rules, the Lessee will make such alterations, changes, replacements and additions at its own expense; *provided, however,* that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Agent, adversely affect the property or rights of said Lessor or the Agent under this Lease or under the Conditional Sale Agreement.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in good order and repair. Such maintenance shall include

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the performance of any overhauls required pursuant to standard and prudent railroad requirements.

The Lessee shall make no improvements or additions to any Unit other than those provided above.

The Lessee agrees to defend, indemnify, protect and hold harmless the Lessor and the Agent and their respective successors and assigns from and against all losses, damages, injuries, liabilities, claims, demands, costs, charges and expenses whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, royalty payments and expenses, patent liabilities, penalties and interest arising out of or as the result of the entering into or the performance of the Conditional Sale Agreement or this Lease, the ownership of any Unit (including without limitation the retention by the Agent of Security Title to any Unit), the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, construction, storage or return of any Unit or any design, system, process, formula, combination, article or material used or contained therein or in the construction thereof or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, whether as a result of negligence, the application of the laws of strict liability, or otherwise except as otherwise provided in § 14 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease. The indemnities required to be paid by the Lessee to the Lessor under this paragraph shall be of an amount sufficient to restore the Lessor to the same position, after considering the effect of the receipt of such indemnities on its United States federal income taxes and state and city income taxes or franchise taxes based on net income that it would have been in had the indemnities not been required; *provided, however*, that such amount shall be based upon the reasonable opinion of the Lessor and such opinion of said Lessor is subject to agreement by Lessee. In the event of disagreement between the parties as to any payment the parties agree to submit the calculation of such amounts to one of the eight largest public accounting firms in the United States, chosen by mutual agreement or, in the absence of agreement, to Arthur Andersen & Co. and such firm shall perform the calculation which will be binding on both parties.

In addition and without limiting the preceding paragraph, the Lessee agrees to defend, indemnify, protect and hold harmless the Builder and the Lessor from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against Builder or the Lessor because of the use in or about the construction or operation of the Units or any part thereof, of any design specified by the Lessee and not developed or purported to be developed by the Builder, or article or material specified by the Lessee and not manufactured by the Builder, which infringes or is claimed to infringe on or which is claimed to constitute contributory infringement with respect to any patent or other right. The term "design" wherever used in this Lease or in any assignment of this Lease shall be deemed to include formulae, systems, processes and combinations.

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

§ 10. *Default.* If one or more of the following events (each such event being hereinafter sometimes called an "Event of Default") shall occur and be continuing:

A. default shall be made in payment of any part of the rental provided in § 3 hereof, in the payment of Casualty Value under § 7 hereof, in the payment of monies due under the Tax Indemnity Agreement between the Lessee and the Lessor dated the date hereof or in the payment of any other monies hereunder, and such default shall continue for five days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

C. the insurance to be maintained by the Lessee under § 20 hereof shall for any reason not remain in full force and effect as therein provided unless comparable substitute insurance satisfactory to the Lessor and the Agent shall be in force;

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

E. a petition for reorganization under Section 77 of the Bankruptcy Act as now constituted or as said Section 77 may be hereafter amended shall be filed by or against the Lessee, and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees, within 30 days after such appointment (whether or not such appointment is subject to confirmation or ratification), if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

F. any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, modification of the obligations of the Lessee under this Lease under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions, 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

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the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the 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 obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment (whether or not such appointment is subject to confirmation or ratification), if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then, in any such case, the Lessor 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, whereupon all rights of the Lessee to the use of the 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 Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any such Units and thenceforth hold, possess, and enjoy the same free from any right of the Lessee, or its successors, or assigns, to use the Units for any purpose whatever. The Lessor shall, nonetheless, 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 90) and also to recover from the Lessee as liquidated damages and not as a penalty (1) that percentage of the Purchase Price of the Units as is set forth on Schedule I hereto opposite the last quarterly period with respect to which the lease rental was paid by the Lessee under this Lease, plus interest at the rate of 13% per annum from the date of the Event of Default to the date of payment thereof less (2) the total net proceeds, if any, paid to Vendor and Vendees (as defined in the Conditional Sale Agreement) following any sale of the Units under the Conditional Sale Agreement or, if there has been no sale, the fair market value of the Units on the date of the Declaration of Default (as defined in the Conditional Sale Agreement) said fair market value to be determined by agreement of the parties, including any assignee of this Lease, or, in the event agreement cannot be reached, in the same manner as set forth in § 13 hereof plus (3) any expenses, including reasonable attorney's fees and the cost of removal of any of the Units from the Flatcars and any reinstallation of the Units on other flatcars, in addition thereto which the Lessor shall have sustained by reason of the breach by the Lessee of this Lease, and of any covenant or covenants of this Lease; *provided, however*, that in the event that sale of any Units is prevented by the order of a court of competent jurisdiction or by any other governmental action, no reduction in the amount owing shall be made

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until such time as the Vendor as defined in the Conditional Sale Agreement receives any "income or proceeds of the Units" as that term is defined in the Conditional Sale Agreement. The amount payable under (1) less (2) shall be paid by the Lessee to the Lessor within 30 days after the date on which such amount is agreed upon or determined hereunder and the amounts payable under (3) shall be payable promptly by the Lessee to the Lessor upon receipt of invoice or invoices therefor.

The remedies in this Lease provided in favor of the Lessor 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 mandatory 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 Lessor and the Lessee agree that the Lessor shall be entitled to all rights provided for in § 77(j) of the Bankruptcy Act or any comparable provision of any amendment thereto, or of any other bankruptcy act, so that the Lessor, to the fullest extent provided by law, shall have the right to take possession of the Equipment upon an Event of Default under this Lease regardless of whether the Lessee is in reorganization.

The failure of the Lessor 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.

Any termination of this Lease or of Lessee's interest in the Equipment and the Lease shall be subject to any rights of the Vendor to affect such termination and the status of the parties hereto.

§ 11. *Return of Units Upon Default.* If this Lease shall terminate pursuant to § 10 hereof, the Lessor may take, or cause to be taken or demand from the Lessee, immediate possession of the Equipment, or one or more of the Units thereof, and may remove the same from possession and use of the Lessee. For such purpose, the Lessor may enter upon the premises of the Lessee or any other premises where the Units may be located and may use and employ in connection with such removal any supplies, services and aids, including but not limited to diesel fuel or other necessary petroleum products, and any available trackage and other facilities or means of the Lessee, with or without process of law.

In case the Vendor (as defined in the Conditional Sale Agreement) shall demand possession of the Units pursuant to the Conditional Sale Agreement and shall designate a reasonable point or points on or near the lines or on the premises of the Lessee for the delivery of the Units to said Vendor, the Lessee shall at its own cost, expense and risk, forthwith and in the usual manner, cause the Units to be moved to such point or points on or near lines or on the premises of the Lessee and shall there deliver the Units or cause them to be delivered to said Vendor. At the

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option of said Vendor, said Vendor may keep the Units on or near any of the lines or on the premises of the Lessee until said Vendor shall have leased, sold or otherwise disposed of the same, whichever first occurs, and for such purpose, the Lessee agrees to furnish, without charge for rent, insurance or storage, the necessary facilities at any point or points selected by said Vendor reasonably convenient to the Lessee.

Subject to the rights of the Vendor in the preceding paragraph, in case the Lessor shall demand possession of the Units pursuant to this paragraph and shall designate a reasonable point or points on or near the lines or on the premises of the Lessee (or on those of its affiliates or to those of any connecting carriers for shipment) for the delivery of the Units to the Lessor, the Lessee shall at its own cost, expense and risk, forthwith and in usual manner, cause the Units to be moved to such point or points on its lines (or on those of its affiliates or to those of any connecting carriers for shipment) and shall there deliver the Units or cause them to be delivered to the Lessor. At the option of the Lessor, the Lessor may keep the Units on or near any of the lines or on the premises of the Lessee until the Lessor shall have leased, sold or otherwise disposed of the same, whichever first occurs, and for such purpose, the Lessee agrees to furnish, without charge for rent, storage, insurance or the necessary facilities at any point or points selected by the Lessor and reasonably convenient to the Lessee.

The assembling, delivery, storage and transportation of the Units as herein provided shall be at the cost, expense and risk (which cost, expense and risk shall include that necessary to remove the Units from the Flatcars and install them on other flatcars) of the Lessee. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, including the Vendor or an authorized representative thereof, or lessee of any such Unit, to inspect the same; *provided, however*, that the Lessee shall not be liable, except in the case of the negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising the rights of inspection granted under this Section.

All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as agents and attorneys of the Lessee with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, 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. This agreement to deliver the Units, furnish facilities, and pay costs as hereinbefore provided is of the essence of the agreement between the parties, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance hereof.

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The Lessee hereby expressly waives any and all claims against the Lessor and its assigns or agents and any and all claims against the Vendor (as defined in the Conditional Sale Agreement) and its assigns or agents for damages of whatever nature in connection with the retaking of any Unit of the Equipment in any reasonable manner.

§ 12. *Assignment; Prohibition Against Liens; Possession and Use.* This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon receipt of written notice of such assignment from the Lessor. All the rights of the Lessor hereunder shall inure to the benefit of the Lessor's assigns. Whenever the term Lessor is used in this Lease it shall include the assignees of the Lessor.

Upon any such assignment, the assignor shall give written notice to the Lessee together with a counterpart copy of such assignment, stating the identity and Post Office address of the assignee.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as hereinafter provided in this § 12. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against the Lessor or the Agent not related to the ownership of the Units), upon or with respect to any Unit, including any accession thereto, or any part thereof or the interest of the Lessor, the Agent or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises; *provided, however*, that the Lessee shall be under no obligation to pay or discharge such claim so long as it is contesting the validity thereof in good faith in a reasonable manner and by appropriate legal proceedings and the nonpayment thereof does not, in the opinion of the Lessor adversely affect the title, property or rights of the Lessor hereunder or under the Conditional Sale Agreement or the title, property or rights of the Agent in or to the Units under the Conditional Sale Agreement. If any such claim shall have been charged or levied by anyone and in any manner against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor, provided that the Lessor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or the Lessee shall have approved the payment thereof. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of or suffer or allow to pass out of its possession or control, any of such Units, except to the extent permitted by this Section 12.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate thereof upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or

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over which railroad equipment of the Lessee, or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units by connecting and other carriers in the usual interchange of traffic or in the transportation thereof from the place of delivery to the Lessee but only upon and subject to all the terms and conditions of the Lease and the Conditional Sale Agreement; *provided, however*, that the Lessee shall not use or permit the use of any Unit in service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

The rights of Lessee under this Lease may not be assigned by the Lessee, except with the prior written consent of the Lessor and the Agent. Nothing contained herein shall prohibit or restrict the right of the Lessee to assign or transfer all of its right hereunder to any corporation, which shall have duly assumed all of such obligations, 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, but in any event only if such corporation will not, upon the effectiveness of such assumption, merger, consolidation or acquisition be in default under any provisions of this Lease.

§ 13. *Renewal Options.* 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 Lessor not less than 6 months prior to the end of the term of this Lease, state that it intends to elect (a) to extend the term of the Lease on the same terms and conditions contained herein except as otherwise provided in this Section in respect to all, but no fewer than all, the Units covered by this Lease for a one year period commencing on the scheduled expiration of the original term, at a rental payable in advance in quarterly payments, each in an amount equal to 1.9702% of the aggregate Purchase Price of the Units under the Lease, such quarterly payments to be made January 1, April 1, July 1 and October 1 in the year of the extended term and with a Casualty Value payment schedule to be negotiated by the Lessee and the Lessor or (b) to purchase all, but not fewer than all, the Units covered by this Lease at the end of such term of this Lease for a purchase price equal to the Fair Market Value as defined hereinafter of such Units as of the end of such term.

In the event that the Lessee exercises its option to extend the initial term of the Lease for a one year period, and provided that this Lease, as extended, has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than 2 months prior to the end of the initial extended term of this Lease, state that it intends to elect (a) to extend the term of the Lease for an additional period of two years on the same terms and conditions contained herein except as otherwise provided in this Section at a then Fair Market Rental as hereinafter defined and a Casualty Value payment schedule to be negotiated by the parties or (b) to purchase all, but not fewer than all, the Units covered by this Lease at the end of such term of the Lease for a purchase price equal to the Fair Market Value as defined hereinafter of such Units as of the end of each such term.

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In the event that the Lessee exercises its option to extend the term of the Lease for such an additional two year period, and provided that this Lease, as extended, has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than 2 months prior to the end of the extended term of two years, state that it intends to elect (a) to extend the term of the Lease for a second period of two years on the same terms and conditions contained herein except as otherwise provided in this Section at a then Fair Market Rental as hereinafter defined and a Casualty Value payment schedule to be negotiated by the parties or (b) to purchase all, but not fewer than all, the Units covered by this Lease at the end of such term of the Lease for a purchase price equal to the Fair Market Value as defined hereinafter of such Units as of the end of each such term.

Fair Market Value and Fair Market Rental shall be determined as soon as feasible upon receipt by the Lessor of notice of the Lessee's aforementioned intention to elect and on the basis of, and shall be equal to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user or lessee (other than (i) a lessee currently in possession and (ii) a used equipment dealer), and an informed and willing seller or lessor under no compulsion to sell or lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or prior to the expiration of the term of this Lease or renewal term, as the case may be, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value or the Fair Market Rental of the Units, such value shall be determined by a qualified independent appraiser selected by the Lessor and approved by the Lessee.

In the event the Lessee elects to purchase the Units, upon payment of the purchase price, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor) for such Units, and such other documents as may be required to release such Units from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

§ 14. *Return of Units upon Expiration of Term.* As soon as practicable on or after the expiration of the term of this Lease with respect to any Unit, the Lessee will (unless the Unit is re-leased to or purchased by the Lessee), at its own cost and expense, at the request of the Lessor deliver possession of such Unit to the Lessor upon or near such tracks or on the premises of the Lessee as the Lessor may reasonably designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on or near such tracks or on the premises of the Lessee for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on or near the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor. The movement, storage removal from the Flatcars and any installation on other

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flatcars of such Unit shall be at the cost, expense and risk of the Lessee, which cost expense and risk shall include that necessary to remove the Units from the Flatcars. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; *provided, however*, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The movement, 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 Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to move, deliver, store and transport the Units.

The Lessee shall return the Units upon the termination of the initial term or any extended term of this Lease in the same operating order, repair and condition as when originally delivered hereunder, ordinary wear and tear excepted.

§ 15. *Lessee's Warranties and Representations.* The Lessee warrants and represents as follows:

A. The Lease, the Purchase Agreement Assignment, the Tax Indemnity Agreement and the acknowledgement to the Lease Assignment have been duly authorized, executed and delivered by the Lessee and constitute valid, legal and binding obligations of the Lessee, enforceable in accordance with their terms;

B. Neither the execution and delivery of this Lease, the Purchase Agreement Assignment, the Tax Indemnity Agreement or the acknowledgement to the Lease Assignment nor the consummation of the transaction herein and therein contemplated or the fulfillment of, or compliance with, the terms and provisions hereof and thereof by the Lessee will conflict with, or result in a breach of, any of the terms, conditions or provisions of any bond, debenture, note, mortgage, indenture, contract or other agreement or instrument to which the Lessee is a party or by which it or its property is bound or will constitute, with the giving of notice or the passage of time or both, a default hereunder or thereunder or will conflict with, or result in a breach of any of the terms, conditions or provisions of any law, regulation, order, judgment or decree of any court or governmental instrumentality.

C. No approval, order or license of the Interstate Commerce Commission or any other governmental authority, federal, state or local, is necessary in order for the Lessor to enter into the Conditional Sale Agreement, this Lease, the Tax Indemnity Agreement or the Lease Assignment or to perform its duties or obligations hereunder or thereunder or such approval as is necessary has been granted and the execution and delivery by the Lessor of such agreements and the performance by it of its obligations thereunder and its ownership of the Units do not subject the Lessor to the jurisdiction of, or regulation by, the Interstate Commerce Commission or any other regulatory authority, federal, state or local and in the event that any such approval, order or license is

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H. Each of the Units, on the date of delivery and acceptance of such Unit with respect thereto as defined in the Conditional Sale Agreement, will have an estimated useful life of at least 12 years and an estimated fair market value at the end of the initial term of this Lease of at least 20% of the Purchase Price of such Unit, without including in such value any increase or decrease for inflation or deflation during such term.

I. As of the Closing Date, with respect thereto as defined in the Conditional Sale Agreement, the Lessee has not directly or indirectly taken any action which would adversely affect the good and marketable title of the Lessor to the Units including, without limitation, any action which would create or result in the creation of any liens, encumbrances and claims of any nature whatsoever against the Units, except only for the rights of the Lessee under this Lease.

J. As of the Closing Date, the Units are free from all claims, liens, security interests and other encumbrances arising at any time on or after the Lessee has accepted delivery of such Units pursuant to § 2 of this Lease other than those created by the Conditional Sale Agreement and any other related documents, the rights of the Lessee under this Lease, and other than those resulting from claims against the Lessor not related to the ownership of the Units.

K. This Lease, the Lease Assignment, the Conditional Sale Agreement and the Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision has been made for publication of notice of such deposit in *The Canada Gazette* in accordance with said Section 86; all filings under the Uniform Commercial Code of the States of New York and Illinois have been effected which are required to perfect the security interest of the Agent and the Lessor in the Equipment; and no other filing, recordation or deposit (or giving of notice) is necessary for the protection of the rights of the Agent or the Vendee under the Conditional Sale Agreement or the Lease in and to the Equipment in any state of the United States of America or in the District of Columbia or under the Lease in Canada or any Province thereof; except that continuation statements must be filed within six months prior to the expiration of any five year period following the respective date of filing of each financing statement.

L. The Lessee represents that it is not entering into this Agreement or the Lease, or any other transaction contemplated hereby or thereby, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it, or, in so far as is known to it, any Investor, the Builder or the Vendee is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

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so necessary or that such execution and delivery or performance does so subject the Lessor to any such jurisdiction or regulation solely as a result of the Lessor's ownership of the Units. The Lessee shall not operate or otherwise utilize the affected Units in any and all jurisdictions for which any such approval, order or license is necessary or in which the Lessor shall become subject to such jurisdiction or regulation, until the Lessee shall have either (i) obtained such approvals, orders or waivers thereof or waivers of all such jurisdiction or regulation from the applicable federal, state or local regulatory authority, as the case may be, or (ii) in form and substance satisfactory to the Lessor, indemnified the Lessor from and against any and all claims, liabilities, penalties or damages of any nature which might arise and/or result from the continued operations of the Unit or Units in any and all such jurisdictions, except for claims, liabilities, penalties or damages arising from acts or omissions of the Lessor.

D. The Lessee has the full power and authority and legal right to carry on its principal business as now conducted.

E. There are no actions, suits or proceedings pending or threatened which, if adversely determined against the Lessee, will materially prevent or interfere with its ability or right to perform its duties and obligations under this Lease, the Purchase Agreement Assignment, the Tax Indemnity Agreement and the acknowledgement to the Lease Assignment.

F. The Lessee has not directly or indirectly taken any action and will not take any action the effect of which will bring the sale of the Conditional Sale Indebtedness under the Conditional Sale Agreement or the investment by the Vendees in the Units within the provisions of Section 5 of the Securities Act of 1933, as amended. The Lessee has not offered any rights, claims or indebtedness under the Conditional Sale Agreement or ownership interests in the Units (or any securities similar to any of the foregoing) to, or has solicited any offer to buy any thereof from, any person other than the Vendees and the Investors. The Lessee makes no representations as to activities by Janney, Montgomery, Scott, Inc. or Radnor Associates, Ltd.

G. The Lessee has furnished to the Investors and the Lessor a consolidated balance sheet, prepared utilizing generally accepted accounting principles, of the Lessee as of December 31, 1976 a related consolidated income statement (income and retained earnings), and an ICC CBS statement (condensed balance sheet) as of December 31, 1976, together with an income statement for the 12 months then ended, both prepared in accordance with the rules of the Interstate Commerce Commission. Such financial statements are in accordance with the books and records of the Lessee and have been prepared in accordance with the respectively applicable accounting principles on a consistent basis throughout the periods covered thereby, and such financial statements fairly present the financial condition of the Lessee at such dates and the results of its operations for such periods. Since December 31, 1976, there have been no changes which, individually or in the aggregate, have been materially adverse to the condition, financial or otherwise, of the Lessee as shown on the balance sheet as of such date, except changes in the ordinary course of business.

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§ 18. *Notices.* Any notice required or permitted to be given herein shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

(a) **if to the Lessor:**

Equilease Corporation
750 Third Avenue
New York, N. Y. 10017
Attn: G. R. Norcera, Senior Vice President

(b) **if to the Lessee, at 746 Union Station Bldg., 516 W. Jackson Blvd., Chicago, Ill. 60606, Attn. Vice President—Accounting;**

(c) **if to the Agent, at Broad and Chestnut Sts., Philadelphia, PA 19101 Attn: Corporate Trust Department,**

or addressed to such other address as the Lessor, the Lessee or the Agent shall hereafter furnish to the others in writing.

§ 19. *Severability; Effect and Modification of Lease.* 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 including the Schedules attached hereto completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. 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 officers of the Lessor and of the Lessee or its duly authorized representative and consented to in writing by the Agent.

§ 20. *Insurance.* The Lessee will self insure with respect to all loss and destruction of, and damage to, any Unit arising out of fire, windstorm, explosion, and all such other similar hazards.

The Lessee will procure and maintain at its expense during the term of this Lease (and any renewals thereof) with insurers satisfactory to the Lessor and the Agent bodily injury and third party property damage insurance for each Unit with liability limits not less than \$21.5 million per occurrence and with a deductible amount not in excess of \$2 million. The policies for such insurance shall (i) name the Lessor and the Agent as additional insureds, as their respective interests may appear, (ii) provide that if the insurers cancel such insurance for any reason whatsoever, or the same is allowed to lapse for non-payment of premium, such cancellation or lapse shall not be effective as to the Lessor or the Agent for thirty (30) days after receipt by the Lessor and the Agent of written notice by the insurers of such cancellation or lapse and (iii) contain no warranties, declarations or conditions which by any action or inaction of the Lessee or any other person (other than of the Lessor or the Agent) would invalidate the interests of the Lessor or the Agent as they appear.

LEASE OF RAILROAD EQUIPMENT

The Lessee shall not materially alter the insurance in effect as of the date hereof and on each Closing Date without the prior written consent of the Lessor and the Agent.

From time to time upon the expiration date of each policy of such insurance, the Lessee shall furnish to the Lessor and the Agent a certificate signed by a firm of independent insurance brokers, appointed by the Lessee and not objected to by the Lessor or the Agent, showing the insurance then maintained by the Lessee pursuant to this § 20 with respect to the Units (and the expiration date of each policy of such insurance) and stating the opinion of said firm that the insurance then carried and maintained on or with respect to the Units complies with the terms hereof. In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor, upon notice to the Lessee, may at its option provide such insurance and, in such event, the Lessee shall, upon demand, reimburse the Lessor for the cost thereof, together with interest thereon at the rate of 13% per annum.

§ 21. *Execution.* This Lease may be executed in several counterparts, but the counterpart delivered to the Interstate Commerce Commission for recordation and subsequently redelivered to the Agent shall be deemed the original counterpart. Although this Lease is dated as of the date first above written, for convenience, 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.

§ 22. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania, *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

§ 23. *Security Document Assignment.* As an inducement to the Investors through the Agent to finance a portion of the aggregate Purchase Price of the Units and other good and valuable consideration, the receipt of which is hereby acknowledged, the Lessee hereby assigns, transfers and sets over to the Agent the Security Document and all of its rights, powers and interests thereunder; *provided, however,* that when all of the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement) and all other sums payable under the Conditional Sale Agreement have been paid or discharged in accordance with the terms thereof and all other covenants and agreements contained therein shall have been performed, all right, title and interest assigned pursuant to this section shall be transferred to the Lessor. General Motors Corporation as of the date hereof has received a copy of this Lease and has acknowledged in the Security Document the assignment of said Document to the Agent in accordance with this Section 23.

Document Number 5
LEASE OF RAILROAD EQUIPMENT

EXHIBIT A
to Lease of Railroad Equipment
SECURITY DOCUMENT

LEASE OF RAILROAD EQUIPMENT

SCHEDULE II

<u>Payment Period</u>	<u>Termination Value % of Purchase Price</u>	<u>Payment Period</u>	<u>Termination Value % of Purchase Price</u>
*	104.903	17	63.244
1	105.503	18	60.340
2	105.139	19	57.385
3	103.763	20	47.694
4	102.000	21	44.598
5	99.892	22	41.451
6	97.746	23	38.250
7	95.561	24	34.981
8	93.288	25	31.642
9	90.927	26	28.252
10	88.519	27	24.810
11	86.063	28	14.633
12	76.863	29	11.054
13	74.250	30	7.426
14	71.589	31	3.747
15	68.880	32	3.592
16	66.099		

*That period from the delivery date of a Unit until October 1, 1977.
To this amount shall be added accrued interim rent (as defined in Section 3 of the Lease).



Logistics Operations

General Motors Corporation

June 2, 1977

30007 Von Dyke Avenue

Warren, Michigan 48090

Mr. George H. Kronberg
Chicago, Milwaukee, St. Paul
and Pacific Railroad Company
516 West Jackson Boulevard
Chicago, Illinois 60606

Dear Mr. Kronberg:

This is in response to your letter of January 10, 1977, in connection with the plans of Chicago, Milwaukee, St. Paul and Pacific Railroad Company ("Milwaukee Road") to assign an additional 100 enclosed tri-level auto-rack cars for General Motors' service. It is our understanding that the 100 tri-level auto racks on the cars will be leased to the Milwaukee Road by Equilease Corporation, a New York corporation. It is our further understanding that these enclosed multi-level cars will be assigned to General Motors' service prior to August, 1977.

In recognition of your obligation to provide these enclosed multi-level cars - to be hereinafter designated by rail car initial and number - General Motors agrees that it will reimburse the Milwaukee Road on a ten-year pro rata basis for any portion of the unamortized cost of the enclosed multi-level auto rack superstructure under the following conditions:

1. GM fails to use the rail cars for the full ten-year period and,
2. The Milwaukee Road is unable to find any other equivalent use for this equipment and,
3. This equipment is prematurely retired from service and,
4. The resulting lack of utilization results in an inequity or impairs the ability of the Milwaukee Road to meet its rental payments with respect to such auto-rack equipment.

We greatly appreciate the cooperation of your railroad in the furtherance of our overall equipment replacement program. We are confident that the accomplishment of this objective will prove to be of mutual benefit.

Very truly yours,

V. A. Long, General Director
Logistics Operations

VAL:gef

Acknowledgment of Notice of Assignment

As of June 1, 1977, General Motors Corporation has agreed to, acknowledges and has been given due notice of the assignment of this letter, and the rights of Milwaukee Road hereunder with respect to the 100 tri-level auto racks, to Girard Trust Bank, as agent under a certain Finance Agreement between said agent and certain investors (as described therein) dated as of June 1, 1977.

GENERAL MOTORS CORPORATION

By _____

EXHIBIT A
to Lease of Railroad Equipment
SECURITY DOCUMENT



Logistics Operations

General Motors Corporation

June 2, 1977

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Warren, Michigan 48090

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Chicago, Milwaukee, St. Paul
and Pacific Railroad Company
516 West Jackson Boulevard
Chicago, Illinois 60604

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GENERAL MOTORS CORPORATION

By _____

OBER, KALER, GRIMES & SHRIVER

ATTORNEYS AT LAW

1600 MARYLAND NATIONAL BANK BUILDING
10 LIGHT STREET
BALTIMORE, MARYLAND 21202
(301) 685-1120

OFFICES IN
WASHINGTON, DC
NEW YORK
NEW JERSEY

CABLE RITNEY
TELEX 8-7774

FACSIMILE (301) 547-0699
(301) 625-9174
(301) 625-8816

FACSIMILE COVER SHEET

TO: D. Mulligan

NO: OF PAGES TO FOLLOW: 3

FACSIMILE NO.: DC Office

DATE: June 13, 1989

FROM: EKGross

FILE NO.:

THIS MESSAGE SENT FROM A PANAFAX FACSIMILE WHICH SENDS AND RECEIVES AUTOMATICALLY WITH ALL GROUP CAPABILITY.
TO CONTACT OUR OPERATOR PLEASE CALL (301) 685-1120 EXT. 533

As promised.

#8850

LEASE OF RAILROAD EQUIPMENT

Dated as of June 1, 1977

8850B

Lease of RR Equip.
6/8/77

8850C

Lease Assign.
Dtd.
6/1/77

between

**Chicago, Milwaukee, St. Paul and
Pacific Railroad Company**

Release
of
Mortgage,
Int. in
Stock
+
equip

7224-E

8036-H

and



8917-G

Release of
certain
equip.

Radnor
Assoc.

+

Equilease

EQUILEASE CORPORATION

15827 9/19/88

Bill of Sale Dtd.

9/8/88

[Covering 100 Enclosed Tri-Level Autoracks]

6496-E

LEASE OF RAILROAD EQUIPMENT

LEASE OF RAILROAD EQUIPMENT, dated as of June 1, 1977, between the CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a Wisconsin corporation (the "Lessee") and EQULEASE CORPORATION, a New York corporation (the "Lessor").

WHEREAS, the Lessor has entered into a conditional sale agreement dated as of the date hereof (the "Conditional Sale Agreement") with Whitehead & Kales Company, a Michigan corporation (the "Builder"), wherein the Builder has agreed to construct, sell and deliver to the Lessor certain units of railroad equipment described in Schedule A hereto (the "Units" or individually a "Unit"), which Units will be attached to certain new 89'4" TTX LH-21 flush deck flatcars (the "Flatcars") owned by Trailer Train Company, a Delaware corporation;

WHEREAS, the Builder has assigned or will assign its interest in the Conditional Sale Agreement to Girard Trust Bank as agent (the "Agent") pursuant to an agreement and assignment (the "Assignment") dated as of the date hereof, between the Builder and the Agent, a copy of which has been delivered to the Lessor and the Lessee;

WHEREAS, the Lessee desires to lease the Units or such lesser number as are delivered and accepted by it on or before October 1, 1977, at the rentals and for the terms and upon the conditions hereinafter provided;

WHEREAS, to induce the Lessor to purchase the Units and lease them to the Lessee, and to induce the Agent to acquire an interest in the Conditional Sale Agreement, General Motors Corporation, a Delaware corporation, has executed a certain letter (the "Security Document") providing certain assurances with respect to the use of the Units, a copy of which letter is attached hereto as Exhibit A; and

WHEREAS, to provide further security to the Agent the Lessee intends to assign the Security Document to the Agent.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee and the Lessee hereby hires the Units from the Lessor, upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Vendor (as defined in the Conditional Sale Agreement), notwithstanding anything in this Lease to the contrary:

§1. *Financing.* This Lease provides for the lease by the Lessee from the Lessor of the Units delivered to the Lessor prior to October 1, 1977, such Units to be financed pursuant to a finance agreement among the Agent and Industrial Valley Bank & Trust Co. and Union Mutual Life Insurance Co. (the "Investors") dated as of the date hereof.

§ 2. *Delivery and Acceptance of Units.* The Lessor shall purchase all of the Units in two Groups (as defined and set forth in the Conditional Sale Agreement) unless a greater or lesser number of Groups shall be agreed to by the Lessor and Builder.