7-207A011
Date JUL 26 1977
Fee $ 6.00
ICC Washington, D. C.

RECORDATION NO. 8804-7 Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8804-A Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

AMENDED
JUL 26 9 36 AM '77
I. C. C.
FEE OPERATION BR.

MELLON BANK, N.A.
Mellon Square
Pittsburgh, Pennsylvania 15230

RECORDATION NO. 8804-K Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

RECORDATION NO. 8804-I Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

Dear Sir:

RECORDATION NO. 8804-J Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

Enclosed for filing pursuant to Section 20c of the Interstate Commerce Act are copies of the following documents:

A. Please file the following documents under Recordation No. 8804.

1. Conditional Sale Agreement dated as of April 15, 1977, between General Electric Company and United States Trust Company of New York as Trustee under Trust Agreement (A). This agreement amends and restates an Interim Conditional Sale Agreement dated as of April 15, 1977, between the same parties which was filed with the ICC on May 2, 1977, at 10:40 a.m., and given Recordation No. 8804.

RECORDATION NO. 8804-K Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

2. Agreement and Assignment dated as of April 15, 1977, between General Electric Company and J. P. Morgan Interfunding Corp. This agreement amends and restates an Interim Agreement and Assignment dated as of April 15, 1977, between the same parties, which was filed with the ICC on May 2, 1977, at 10:40 a.m., and given Recordation No. 8804-A.

RECORDATION NO. 8804-L Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

3. Conditional Sale Agreement dated as of April 15, 1977, between General Motors Corporation (Electro-Motive Division) and United States Trust Company of New York as Trustee under Trust Agreement (A). This agrement amends and restates an Interim Conditional Sale Agreement dated as of April 15, 1977, between the same parties which was filed with the ICC on May 2, 1977, at 10:40 a.m., and given Recordation No. 8804-B.

RECORDATION NO. 8863-D Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8863-E Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8863-I Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8863-H Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8863-F Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8863-G Filed & Recorded
JUL 26 1977-9 40 AM
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8863-J Filed & Recorded
JUL 26 1977-9 42 AM
INTERSTATE COMMERCE COMMISSION

4. Agreement and Assignment dated as of April 15, 1977, between General Motors Corporation (Electro-Motive Division) and J. P. Morgan Interfunding Corp. This agreement amends and restates an Interim Agreement and Assignment dated as of April 15, 1977, between the same parties which was filed with the ICC on May 2, 1977, at 10:40 a.m., and given Recordation No. 8804-C.

5. Supplemental Assignment dated as of April 15, 1977, between J. P. Morgan Interfunding Corp. and Mellon Bank, N.A., as Agent. (As this document was signed in counterparts, each stapled set represents a completely signed document.)

6. Lease of Railroad Equipment dated as of April 15, 1977, between Consolidated Rail Corporation and United States Trust Company of New York as Trustee under Trust Agreement (A). This agreement amends and restates an Interim Lease of Railroad Equipment dated as of April 15, 1977, between the same parties, which was filed with the ICC on May 2, 1977, at 10:40 a.m., and given Recordation No. 8804-D.

7. Assignment of Lease, Reassignment and Agreement dated as of April 15, 1977, among United States Trust Company of New York as Trustee under Trust Agreement (A), J. P. Morgan Interfunding Corp. and Mellon Bank, N.A., as Agent. This agreement amends and restates an Interim Assignment of Lease and Agreement dated as of April 15, 1977, between United States Trust Company of New York as Trustee under Trust Agreement (A) and J. P. Morgan Interfunding Corp., which was filed with the ICC on May 2, 1977, at 10:40 a.m., and given Recordation No. 8804-E.

B. Please file the following documents under Recordation No. 8863.

8. Conditional Sale Agreement dated as of April 15, 1977, between General Motors Corporation (Electro-Motive Division) and United States Trust Company of New York as Trustee under Trust Agreement (B). This agreement amends and restates an Interim Conditional Sale Agreement dated as of

April 15, 1977, between the same parties, which was filed with the ICC on June 24, 1977, at 7:15 p.m., and given Recordation No. 8863.

9. Agreement and Assignment dated as of April 15, 1977, between General Motors Corporation (Electro-Motive Division) and J. P. Morgan Interfunding Corp. and General Electric Credit Corporation. This agreement amends and restates an Interim Agreement and Assignment dated as of April 15, 1977, between the same parties, which was filed with the ICC on June 24, 1977, at 7:15 p.m., and given Recordation No. 8863-A.

10. Supplemental Assignment dated as of April 15, 1977, between J. P. Morgan Interfunding Corp. and General Electric Credit Corporation and Mellon Bank, N.A., as Agent.

11. Lease of Railroad Equipment dated as of April 15, 1977, between Consolidated Rail Corporation and United States Trust Company of New York as Trustee under Trust Agreement (B). This agreement amends and restates an Interim Lease of Railroad Equipment dated as of April 15, 1977, between the same parties, which was filed with the ICC on June 24, 1977, at 7:15 p.m., and given Recordation No. 8863-B.

12. Assignment of Lease, Reassignment and Agreement dated as of April 15, 1977, among United States Trust Company of New York as Trustee under Trust Agreement (B), J. P. Morgan Interfunding Corp., General Electric Credit Corporation and Mellon Bank, N.A., as Agent. This agreement amends and restates an Interim Assignment of Lease and Agreement dated as of April 15, 1977, among United States Trust Company of New York as Trustee under Trust Agreement (B), J. P. Morgan Interfunding Corp. and General Electric Credit Corporation, which was filed with the ICC on June 24, 1977, at 7:15 p.m., and given Recordation No. 8863-C.

C. Please also file the following document.

13. Chattel Mortgage dated as of April 15, 1977, between Mellon Bank, N.A., as Agent, and

United States Trust Company of New York as Trustee under Trust Agreement (A) and as Trustee under Trust Agreement (B).

The names and addresses of the parties to the documents listed above are as follows:

1. Vendor-Assignor:
   General Motors Corporation (Electro-Motive Division)
   LaGrange, Illinois 60525.

2. Vendor-Assignor:
   General Electric Company
   2901 East Lake Road
   Erie, Pennsylvania 16531.

3. Purchaser-Vendee-Lessor-Assignor-Mortgagor:
   United States Trust Company of New York
   130 John Street
   New York, N. Y. 10038.

4. Lessee:
   Consolidated Rail Corporation
   1310 Six Penn Center Plaza
   Philadelphia, Pennsylvania 19104.

5. Assignee-Assignor:
   J. P. Morgan Interfunding Corp.
   37 Wall Street
   New York, N. Y. 10015.

6. Assignee-Assignor:
   General Electric Credit Corporation
   P. O. Box 8300
   Stamford, Connecticut 06904

7. Agent-Vendor-Assignee-Mortgagee:
   Mellon Bank, N.A.
   Mellon Square
   Pittsburgh, Pennsylvania 15230.

The documents listed in Items 1 and 2 above cover the locomotives set forth in Schedule A hereto. The documents listed in Items 3 and 4 above cover the locomotives set forth in Schedule B hereto. The documents listed in Items 5, 6 and 7 above cover the locomotives set forth in Schedules A and B hereto. The documents listed in Items 8, 9, 10, 11 and 12

above cover the locomotives set forth in Schedule C hereto. The document listed in Item 13 above covers the locomotives set forth in Schedules A, B and C hereto. All such locomotives bear the road numbers of Consolidated Rail Corporation shown on such Schedules, and also bear the following legend:

"Ownership subject to Conditional Sale Agreement filed under the Interstate Commerce Act, Section 20c".

Please file and record the documents referred to in this letter and cross-index them under the names of the parties listed above. A check for $370 is enclosed for payment of the recording fee.

Please return to the delivering messenger the following items:

(a) All counterparts of the documents referred to in this letter that are not required for filing, stamped with the appropriate recordation number.

(b) A stamped copy of this letter.

(c) Your fee receipt and letter confirming recordation addressed to R. J. Donahue, Mellon Bank, N.A., Pittsburgh, Pennsylvania 15230.

Sincerely yours,

MELLON BANK, N.A.,

by R. J. Donahue,

SCHEDULE A

Type	Builder	Quantity	Lessee's Identification Numbers (Both Inclusive)
2,250 h.p. Model U23-B diesel-electric locomotive	General Electric Company	10	CR 2789-2798
3,000 h.p. Model C30-7 diesel-electric locomotive	General Electric Company	10	CR 6600-6609
2,250 h.p. Model B23-7 diesel-electric locomotive	General Electric Company	17	CR 2800-2816

SCHEDULE B

Type	Builder	Quantity	Lessee's Identification Numbers (Both Inclusive)
3,000 h.p. Model GP40-2 diesel-electric locomotive	General Motors Corporation (Electro-Motive Division)	33	CR 3280-3312
3,000 h.p. Model SD40-2 diesel-electric locomotive	General Motors Corporation (Electro-Motive Division)	32	CR 6409-6440
2,000 h.p. Model GP38-2 diesel-electric locomotive	General Motors Corporation (Electro-Motive Division)	10	CR 8163-8172

SCHEDULE C

Type	Builder	Quantity	Lessee's Identification Numbers (Both Inclusive)
3,000 h.p. Model SD40-2 diesel-electric locomotive	General Motors Corporation (Electro-Motive Division)	51	CR 6358-6408
2,000 h.p. Model GP38-2 diesel-electric locomotive	General Motors Corporation (Electro-Motive Division)	8	CR 8173-8180

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

July 26, 1977

R. J. Donahue
Mellon Bank
Nellon Square
Pittsburgh, PA 15230

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 7/26/77 at 9:40 AM, and assigned recordation number(s) See Below.

Sincerely yours,

H.G. Homme, Jr.
Acting Secretary

Enclosure(s) 8804-F, G, H, I, J, K and L.
8863-D, E, F, G, H, and I.

SE-30-T
(6/77)

RECORDATION NO. 8804-F Filed & Recorded

JUL 26 1977 -9 40 AM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of April 15, 1977

between

GENERAL ELECTRIC COMPANY

and

UNITED STATES TRUST COMPANY OF NEW YORK,
as Trustee under
Trust Agreement (A)

8.75% Conditional Sale Indebtedness Due
Not Later Than December 15, 1992

THIS CONDITIONAL SALE AGREEMENT AMENDS AND RESTATES IN ITS ENTIRETY AN INTERIM CONDITIONAL SALE AGREEMENT DATED AS OF APRIL 15, 1977, BETWEEN GENERAL ELECTRIC COMPANY AND UNITED STATES TRUST COMPANY OF NEW YORK, AS TRUSTEE UNDER TRUST AGREEMENT (A).

Conditional Sale Agreement

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* This Table of Contents has been included in this document for convenience only and does not form a part of or affect any construction or interpretation of this document.

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ANNEX D Assignment of Lease, Reassignment and Agreement

CONDITIONAL SALE AGREEMENT dated as of April 15, 1977, between the corporation named in Item 1 of Annex A hereto (said corporation being hereinafter called the Builder or the Vendor, as the context may require, all as more particularly set forth in Article 1 hereof) and UNITED STATES TRUST COMPANY OF NEW YORK, acting as Trustee (hereinafter called the Vendee), under a Trust Agreement (A) (hereinafter called the Trust Agreement) dated as of the date hereof with J. P. Morgan Interfunding Corp. (hereinafter called the Beneficiary).

WHEREAS the Builder agrees to construct, conditionally sell and deliver to the Vendee, and the Vendee agrees to conditionally purchase, the railroad equipment described in Annex B hereto (hereinafter called the Equipment);

WHEREAS the Vendee is entering into a Lease of Railroad Equipment (A) dated as of the date hereof with Consolidated Rail Corporation (hereinafter called the Lessee) in substantially the form annexed hereto as Annex C (hereinafter called the Lease) pursuant to which the Lessee will lease from the Vendee all the units of Equipment so purchased, or such lesser number of units as are delivered and accepted hereunder, as well as certain other units of equipment to be purchased from General Motors Corporation (Electro-Motive Division);

WHEREAS Mellon Bank, N.A. (hereinafter called the Assignee or the Vendor), is acting as Agent for the investors pursuant to a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) among the Assignee, the Lessee, the Vendee, the Beneficiary, General Electric Credit Corporation and the parties named in Schedule A thereto, and all obligations of the Vendee to the Builder under the Purchase Order (as defined in the Participation Agreement) will be superseded by this Conditional Sale Agreement; and

WHEREAS the Builder will guarantee to the Vendee and the Agent certain obligations under this Conditional Sale Agreement and the Lease pursuant to a Guaranty Agreement dated as of the date hereof (and the Builder in its capacity as guarantor thereunder is hereinafter sometimes called the Guarantor).

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, and intending to be legally bound, the parties hereto do hereby agree as follows:

ARTICLE 1. Assignment; Definitions. The parties hereto contemplate that the Vendee will furnish that portion of the Purchase Price (as hereinafter defined) for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof between the Builder and the Assignee (or the Beneficiary, as hereinafter provided) (such Agreement and Assignment being hereinafter called the Assignment). Notwithstanding anything to the contrary hereinbefore set forth, it is understood that the Builder may have entered into an interim conditional sale agreement in connection with the sale of certain units of Equipment and may, pursuant to an interim agreement and assignment, have assigned its interests in such interim conditional sale agreement to the Beneficiary in consideration of the payment by the Beneficiary of an amount equal to the Conditional Sale Indebtedness (as hereinafter defined) in respect of such units. In that event, such interim conditional sale agreement is superseded, amended and restated in its entirety by this Conditional Sale Agreement. The parties contemplate that such interim agreement and assignment will be amended and restated in the form of the Assignment with the Beneficiary as assignee and that the Beneficiary will assign to the Assignee all its right, title and interest in and to this Conditional Sale Agreement, in consideration of the payment by the Assignee to the Beneficiary on the Take-Out Date (as defined in the Participation Agreement) of an amount equal to the Conditional Sale Indebtedness in respect of units settled for under such interim conditional sale agreement, pursuant to a Supplemental Assignment, to which the Builder will consent (hereinafter called the Supplemental Assignment; the Assignment and the Supplemental Assignment being hereinafter sometimes collectively called the Assignments).

The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the corporation named in Item 1 of Annex A hereto and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particu-

lar assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the corporation named in Item 1 of Annex A hereto and any successor or successors for the time being to its manufacturing properties and business.

The parties hereto contemplate that the Vendee will assign to the Assignee, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title, and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease, Reassignment and Agreement in the form of Annex D hereto (hereinafter called the Lease Assignment).

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the units of Equipment described in Annex B hereto at its plant set forth in said Annex B, and will conditionally sell and deliver to the Vendee, and the Vendee will conditionally purchase from the Builder and accept delivery of and pay for (as hereinafter provided and subject to the limitations hereinafter set forth), the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, the Vendee and the Lessee (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, and each such unit will be new railroad equipment, will not incorporate any used components (or, if such components are incorporated, their aggregate cost will not be more than 20% of the cost of material and parts used in constructing such unit) and will not have been used by any person so as to preclude the "original use" of such unit, within the meaning of Sections 48(b)(2) and 167(c)(2) of the Internal Revenue Code of 1954, as amended, from commencing with the Vendee.

ARTICLE 3. Inspection and Delivery. The Builder

will deliver the units of the Equipment to the Vendee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment not settled for under the interim conditional sale agreement hereinabove referred to shall not be made (i) until this Agreement, the Lease, the Assignments, the Lease Assignment and the Chattel Mortgage (as defined in the Participation Agreement) have been filed pursuant to 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 shall have been made for publication of notice of such deposit in The Canada Gazette; (ii) subsequent to the commencement of any proceedings specified in clauses (c) or (d) of Article 15 hereof or the occurrence of any event of default (as described in Article 15 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default; (iii) if the Purchase Price for such unit when added to the aggregate Purchase Price of (A) all units theretofore accepted under and made subject to this Agreement and (B) all other units proposed to be delivered and accepted under this Agreement concurrently with such unit would exceed the Maximum Purchase Price for the Equipment specified in Item 5 of Annex A hereto; or (iv) following receipt of written notice from the Assignee that the conditions contained in Paragraph 7 of the Participation Agreement in respect of any Date of Deposit (as defined in the Participation Agreement) subsequent to the first Date of Deposit have not been met. The Builder agrees not to deliver any unit of the Equipment hereunder (a) following receipt of written notice from the Vendee or the Assignee of the commencement of any such proceedings or the occurrence of any such event, as aforesaid, or that the Maximum Purchase Price specified in Item 5 of Annex A hereto would be exceeded by any subsequent delivery of a unit, and (b) until it receives notice from the Vendee and the Assignee that the conditions contained in Paragraphs 7 and 8 of the Participation Agreement in respect of the first Date of Deposit have been met. The Builder represents to the Assignee as third-party beneficiary hereof that prior to the delivery of each unit of Equipment that was or will have been delivered to the Lessee and/or the Vendee pursuant to any interim conditional sale agreement or interim lease hereinabove referred to, the interim conditional sale agreement, interim lease, and all assignments thereof in respect of such unit were duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and, within 21 days from the execution thereof, all such documents in respect of such units

were deposited with the Registrar General of Canada (and provision was made for publication of notice of such deposit in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada.

Any unit of Equipment not delivered at the time of receipt by the Builder of the notice specified in clause (a) of the last sentence of the first paragraph of this Article 3 and any unit of Equipment not delivered and accepted hereunder on or prior to December 15, 1977, by reason of noncompliance with the conditions referred to in the next preceding paragraph or causes set forth in the next succeeding paragraph or otherwise shall be excluded from this Agreement and the Vendee shall be relieved of its obligation to purchase and pay for such unit of Equipment. If any unit of Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the Vendee and the Builder (and any assignee of the Builder) shall execute an agreement supplemental hereto limiting this Agreement to the units of Equipment not so excluded herefrom. Pursuant to the Participation Agreement the Lessee has agreed to purchase such excluded Equipment and any Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof from the Builder, upon the satisfaction or waiver of any conditions of the Purchase Order, all as provided in Paragraph 1 of the Participation Agreement. The Vendee agrees, upon any such exclusion, to take such steps, including the execution of instruments of transfer, as it may be reasonably requested by the Lessee for the purpose of acknowledging and perfecting the interest of the Lessee in any unit of Equipment so excluded from this Agreement, and the Vendee shall have no further obligation or liability in respect of units so excluded.

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

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who may be employees of the Lessee) and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the

materials used in the construction of the Equipment in accordance with its standard quality control practices. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee (who may be an employee of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) substantially in the form of Schedule C-1 to the Lease stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 9 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 13 hereof.

On delivery and acceptance of each such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 13 hereof.

Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the delivery to and acceptance by or on behalf of the Vendee of any unit of Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof shall be ineffective, ab initio, to create in or transfer to the Vendee any legal or beneficial right or interest in such unit or (except as provided in the first paragraph of Article 4 hereof) to impose on the Vendee any liability, obligation or responsibility with respect thereto; any right or interest in any such unit created in or transferred to or purported to be created in or transferred to the Vendee shall be held by the Vendee solely as trustee for the benefit of the Builder.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder, the Vendee and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices per unit of the Equipment as so increased or decreased as set forth in the Builder's invoice or invoices delivered to the Vendee and, if

the Purchase Price is other than the base price or prices set forth in Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Vendee (such invoice or invoices being hereinafter called the Invoices). If on any Closing Date the aggregate Purchase Price of the Equipment for which settlement has theretofore been or is then being made under this Agreement would, but for the provisions of this sentence, exceed the Maximum Purchase Price for the Equipment specified in Item 5 of Annex A hereto (or such higher amount as the Vendee may at its option agree to prior to delivery of any unit or units of Equipment that, but for such agreement, would be excluded from this Agreement), the Builder (and any assignee of the Builder) and the Vendee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as aforesaid).

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Vendee as is provided in Item 2 of Annex A hereto (each such group being hereinafter called a Group). The term "Closing Date" with respect to any Group shall mean such date (which shall be a business day not earlier than April 15, 1977, and not later than December 30, 1977, such later date being hereinafter called the Cut-Off Date), occurring not more than ten business days following presentation by the Builder to the Vendee of the Invoices and Certificates of Acceptance for such Group and written notice thereof by the Builder to the Lessee, as shall be fixed by the Lessee by written notice delivered to the Vendee and the Vendor at least six business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Pittsburgh, Pennsylvania, are authorized or obligated to remain closed.

The Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group

(i) an amount equal to 33% of the aggregate Purchase Price of such Group plus (ii) the amount, if any, by which (x) 67% of the Purchase Price of all units of Equipment for which settlement has theretofore or is then being made, as set forth in the Invoice or Invoices therefor (said invoiced prices being hereinafter called the Invoiced Purchase Prices), exceeds (y) the Maximum Conditional Sale Indebtedness specified in Item 6 of Annex A hereto and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this clause (ii); and

(b) in 30 semiannual instalments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (hereinafter called the Conditional Sale Indebtedness) shall be payable on the 30 consecutive dates occurring semiannually following the earlier of (i) the last Closing Date under this and the other two Conditional Sale Agreements referred to in the Participation Agreement, and (ii) December 15, 1977 (or, if any such date is not a business day, on the next preceding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness from time to time outstanding shall bear interest at the rate of 8.75% per annum. Interest shall be payable, to the extent accrued, on the Take Out Date, on the earlier of (i) the last Closing Date under this and the other two Conditional Sale Agreements referred to in the Participation Agreement and (ii) December 15, 1977, and on each Payment Date. The instalments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto and the aggregate of such instalments of principal will completely amortize the Conditional Sale Indebtedness. The Vendee will furnish to the Vendor and the Lessee promptly after the last Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

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

The Vendee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 9.75% per annum (hereinafter called the Overdue Rate).

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 hereof, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 15 and 16 hereof), but not limiting the effect of Article 21 hereof, it is understood and agreed by the Vendor that the liability of the Vendee or any successor to or assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, including any liability arising out of or in connection with the performance of its obligations hereunder and excluding only the obligations set forth in the proviso in the third paragraph of Article 12 hereof and the payments to be made pursuant to subparagraph (a) of the third paragraph of this Article, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment" (as hereinafter defined), and such payments shall be made by the Vendee only to the extent that the Vendee or any successor to or any assignee of the Vendee shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. Except as provided in the next preceding sentence, the Vendor agrees that the Vendee and any successor to or assignee of the Vendee shall have no personal liability to make any payments under this Agreement or any other agreement whatsoever except from the "income and proceeds from the Equipment". In addition, the Vendor agrees that the Vendee and any successor to or assignee of the Vendee (i) make no representation or warranty, and are not responsible for, the execution, validity, sufficiency or enforceability of the Lease in so far as it relates to the Lessee (or any document relative thereto) or of any of the Lessee's obligations thereunder and (ii) shall not be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Equipment and to the

Vendor's rights under the Lease against the Lessee and the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 15 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any successor to or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 10 or any other provision of the Lease, other than amounts paid by the Lessee by way of indemnity pursuant to § 16 of the Lease or pursuant to § 6 of the Lease, except to the extent such indemnity under such § 6 is required to be paid to the Builder or the Vendor pursuant to Article 6 hereof, and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Vendee or any successor to or any assignee of the Vendee and as shall equal the portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) received by the Vendee or any successor to or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any successor to or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. Notwithstanding anything to the contrary contained in this Agreement, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will limit its execution of such judgment to

amounts payable pursuant to the limitations set forth in this paragraph. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment for the full unpaid Purchase Price of the Equipment and accrued interest thereon and all other payments and obligations hereunder.

ARTICLE 5. Title to the Equipment. The Vendor shall and hereby does retain its title and interests in the Equipment until the Vendee shall have made all its payments under this Agreement, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease. Any and all parts installed on and additions and replacements made to any unit of the Equipment (except for any such parts owned by the Lessee pursuant to § 9 of the Lease) shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with accrued interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute a bill or bills of sale for the Equipment releasing its title to and interest therein to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Vendee at its address referred to in Article 20 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance

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

ARTICLE 6. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than gross receipts taxes [except gross receipt taxes in the nature of or in lieu of sales or use or rental taxes], taxes measured by net income, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Vendee assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Vendor solely by reason of its ownership thereof (except as provided above) and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the title or interests of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the title or interests or property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved in writing the payment thereof.

ARTICLE 7. Maintenance; Casualty Occurrences. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order, repair and condition.

In the event that any unit of the Equipment shall be or become worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, permanently returned to the Builder pursuant to any patent indemnity provision hereof, or taken or requisitioned by condemnation or otherwise by the United States Government for a period which shall exceed the then remaining term of the Lease, or by any other government or governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days, or if a "Default", under and as defined in Section 2 of the Maintenance Agreement (as defined in the Lease) shall have occurred with respect to such unit (such occurrences being herein called Casualty Occurrences), the Vendee shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the earlier of (i) the sixtieth day following notice by the Lessee to the Vendee of a Casualty Occurrence under the Lease and (ii) the next succeeding date for the payment of interest on the Conditional Sale Indebtedness, but not earlier than the first scheduled Payment Date pursuant to Article 4 hereof (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendor an amount equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of such Casualty Payment Date and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of the interest and principal due on such date) to prepay without penalty or premium the instalments of the Conditional Sale Indebtedness (ratably in accordance with the unpaid balance of each such instalment) and the Vendee will promptly furnish to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Assignee may request. In the event of the requisition for use by the United States Government or any other government or governmental entity of any unit of the Equipment not constituting a Casualty Occurrence, all of the Vendee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of tne Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest, and the release of the Vendor's security interest, in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the Casualty Payment Date with respect to such unit (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit), plus interest accrued thereon but unpaid as of such Casualty Payment Date. For the purpose of this paragraph, each payment of the Purchase Price in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of the Equipment.

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence, the Vendor shall, subject to the Vendor's having received payment of the Casualty Value hereunder and provided no event of default (or other event which after notice or lapse of time or both would become an event of default) shall have occurred and be continuing, pay such insurance proceeds or condemnation payments to the Vendee. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon reasonable proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired, provided no event of default (or other event which after notice or lapse of time or both would become an event of default) shall have occurred and be continuing.

ARTICLE 8. Reports and Inspections. On or before

April 30 in each year, commencing with the year 1978, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment then subject to this Agreement, the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 9 hereof have been preserved or replaced. The Vendor, at its sole cost and expense, shall have the right, by its agents, to inspect the Equipment and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 9. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the identification number of the Lessee as set forth in Annex B hereto, or, in the case of Equipment not there listed, such identification number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership subject to a Conditional Sale Agreement filed under the Interstate Commerce Act, Section 20c", with appropriate changes thereof and additions thereto as from time to time may be required by law, in the opinion of the Vendor, in order to protect the Vendor's title and interests in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Vendee will not permit the identification number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and

deposited.

Except as provided in the immediately preceding paragraph, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

ARTICLE 10. Compliance with Laws and Rules. During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all applicable laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads, if applicable, 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 Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement, addition or modification of or to any part on any unit of the Equipment, the Vendee will conform therewith at its own expense; provided, however, that the Vendee or 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 reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 11. Possession and Use. The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The parties hereto acknowledge that the Vendee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to

the remedies, of the Vendor under this Agreement. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor, it being understood and agreed that such consent shall not be unreasonably withheld for changes in the provisions of the Lease which are not intended or necessary to satisfy the obligations of the Vendee under the Conditional Sale Agreement.

ARTICLE 12. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the interest of the Vendor therein, or the Vendee's interests in the Lease and the payments to be made thereunder equal or superior to the Vendor's title or interests therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the title or interests of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of such liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

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

The foregoing provisions of this Article 12 shall be subject to the limitations set forth in the last paragraph of Article 4 hereof and the provisions of Article 21 hereof; provided, however, that the Vendee will pay or discharge any and all claims, liens, charges or security interests claimed by any party from, through or under the Vendee or its successors or assigns, not arising out of the transactions contemplated hereby (but including tax liens arising out of the receipt of the income and proceeds from the Equipment), equal or superior to the Vendor's security interest therein, which, if unpaid, might become a lien, charge or

security interest on or with respect to the Equipment, or any unit thereof, or the Vendee's interest in the Lease and the payments to be made thereunder, but the Vendee shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement or in and to the Lease and the payments to be made thereunder.

ARTICLE 13. Indemnities, Warranties and Representations. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention by the Vendor of title to or a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any claim for patent, trademark or copyright infringement, any accident in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except however, in the case of the Builder, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any breach of warranty or failure to perform any covenant hereunder by the Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the release of the security interest in, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

The Vendee will bear the responsibility for and risk of, and shall not be released from its obligations hereunder (except as provided in Article 21 hereof) in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

The Builder represents and warrants to the Vendee that, at the time of delivery and acceptance of each unit of Equipment under this Agreement, the Vendee will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this agreement and the rights of the Lessee under the Lease.

The Builder represents that it is not entering into this Conditional Sale Agreement, or into any other transaction contemplated by the Participation Agreement, directly or indirectly in connection with any arrangement or understanding by it 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, the Lessee, any party named in Schedule A to the Participation Agreement, the Vendee in its individual capacity or the Beneficiary is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

The agreement of the parties relating to the Builder's warranty of material and workmanship, the agreement of the parties relating to patent indemnification and the agreement of the parties relating to the Builder's limitation of liability are set forth in Items 3 and 4 of Annex A hereto.

ARTICLE 14. Assignments. The Vendee will not, except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 13 hereof, or relieve the Vendee of its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment, either the assignor or

the assignee shall give written notice to the Vendee, the Lessee and the Guarantor, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Vendee of the notification of any such assignment, all payments thereafter to be made by the Vendee under this Agreement shall, to the extent so assigned, be made to the assignee at such address as it may direct.

The Vendee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignments and as further described in Article 1 hereof. The Vendee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Lessee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Lessee, as the case may be, against and only against the Builder.

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing to wit:

(a) the Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) and such default

shall continue for ten business days after the date such payment is due and payable; or

(b) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Vendee (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) or the Lessee contained herein or in any agreement entered into concurrently herewith relating to the financing of the Equipment, and such default shall continue for 30 days after the earlier of (i) written notice from the Vendor to the Vendee and the Lessee specifying the default and demanding that the same be remedied and (ii) the date on which such default shall first become known to any trust officer of the Vendee; or

(c) a petition for reorganization under Section 77 of the Bankruptcy Act (as now constituted or as hereafter amended, including any successor provision thereto) 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 the Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) any other proceeding shall be commenced by or against the Vendee or the Lessee for any relief which includes, or might result in, any modification of the obligations of the Vendee hereunder or of the Lessee under the Lease under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered

ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee under this Agreement or of the Lessee under the Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Vendee or the Lessee, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(e) the Vendee shall make or permit any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment and the Vendee shall, for more than 30 days after demand in writing by the Vendor, fail to secure a reassignment or retransfer to the Vendee of such Agreement, interest or right; or

(f) the occurrence of any of the following:

(i) Involuntary Bankruptcy Proceedings--a receiver, liquidator or trustee of the Vendee or the Lessee, or of any of the property of either, is appointed by court order and such order remains in effect for more than 30 days; or the Vendee, or the Lessee, is adjudicated bankrupt or insolvent; or any of the property of either is sequestered by court order and such order remains in effect for more than 30 days; or a petition is filed against the Vendee or the Lessee under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within 30 days after such filing;

(ii) Voluntary Petitions--the Vendee, or the Lessee, files a petition in voluntary bankruptcy or seeking relief under any provision of any bank-

ruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or

(iii) Assignments for Benefit of Creditors, etc.--the Vendee or the Lessee makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver, trustee or liquidator of the Vendee, or the Lessee, or of all or any part of the property of either;

followed by a good faith determination by the Assignee and notification thereof to the Vendee, the Beneficiary and the Lessee within 45 days following any such occurrence that, as a result, it deems itself inadequately secured; or

(g) an Event of Default shall have occurred under the Lease; provided, however, that any such Event of Default under the Lease by reason of any failure of the Lessee to make any payment due thereunder shall not be deemed to be an event of default hereunder if, prior to a Declaration of Default (as hereinafter defined), the Vendee pays to the Vendor an amount equal to (a) the amount which the Lessee failed to pay minus (b) any portion of such amount which the Vendor would have been required to pay over to the Vendee pursuant to the Lease Assignment; provided, further, however, that no such payment by the Vendee shall prevent an Event of Default under the Lease from being an event of default hereunder if there shall have occurred more than two consecutive Events of Default under the Lease by reason of any failure of the Lessee to make any payment due thereunder or more than a total of three such Events of Default under the Lease, and any other or additional Events of Default under the Lease shall constitute events of default hereunder whether or not the Vendee makes any payment to the Vendor;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the Lessee's rights of possession, use and assignment under §§ 4 and 12 of the Lease, cause the Lease

immediately upon such notice to terminate, but without affecting the indemnities which by the provisions of the Lease survive its termination and/or (ii) declare (herein called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the Overdue Rate, to the extent legally enforceable. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, subject to the provisions of Articles 4 and 21 hereof, and to collect such judgment out of the "income and proceeds of the Equipment" wherever situated.

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

ARTICLE 16. Remedies. Subject to the Lessee's rights of possession, use and assignment under §§ 4 and 12 of the Lease, at any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Vendee or any other person and for such purpose may enter upon the premises of the Vendee or any other premises where the Equip-

ment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Vendee shall, at its own expense and risk:

(a) forthwith and in the usual manner cause the Equipment to be placed upon such storage tracks of the Lessee or any of its affiliates as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks at the risk of the Vendee without charge for insurance, rent or storage until the Equipment has been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the Equipment to be transported to any reasonable place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Vendor.

During any storage period, the Vendee will, at its own cost and expense, insure, maintain and keep each such unit in good order and repair and will permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers, lessees and users. This agreement to deliver the Equipment and furnish facilities 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 Vendor shall be entitled to a decree against the Vendee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, at its election and upon such notice as is hereinafter

set forth, retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee, the Beneficiary, the Guarantor and the Lessee by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee or for its account may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee, the Lessee, the Guarantor or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

Subject to the Lessee's rights of possession, use and assignment under §§ 4 and 12 of the Lease, at any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Vendee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Lessee or any other party claiming from, through or under the Vendee or the Lessee, at law or in equity, at public or private sale and with or without adver-

tisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, or Philadephia, Pennsylvania, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Vendee, the Lessee or the Guarantor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee, the Lessee and the Guarantor shall be given written notice of such sale or the making of a contract for such sale not less than ten business days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where fewer than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee, the Vendee and the Guarantor to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee or the Lessee

(except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence granted to the Vendee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Vendee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the Overdue Rate, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee. No amount received by the Vendor pursuant to the Guaranty Agreement shall be included in determining either a deficiency or a surplus for the purposes of this Agreement.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforc-

ing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 18. Recording. The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto, and the Chattel Mortgage to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada (notice of such deposit to be forthwith given in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada; and the Vendee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish to the Vendor certificates

or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 19. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Except for the Participation Agreement and the Chattel Mortgage, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Vendee with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Vendee.

The parties hereto acknowledge that the Guaranty Agreement contains certain provisions regarding the consent of the Guarantor in the event of any variation or modification of this Agreement or any waiver of any of its provisions or conditions which would either individually or cumulatively have a material adverse effect upon the Guarantor.

ARTICLE 20. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at the following addresses

(a) to the Vendee, at 130 John Street, 4th Floor, New York, New York 10038, Attention of Corporate Trust and Agency Division,

(b) to the Lessee, at 1310 Six Penn Center Plaza, Philadelphia, Pennsylvania 19104, Attention of Assistant Treasurer-Cash Mobilization,

(c) to the Builder or the Guarantor, at its address specified in Item 1 of Annex A hereto,

(d) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, and to the Lessee, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 21. Immunities; Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against the Beneficiary or any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the second paragraph of Article 16 and under Articles 3, 6, 7 (other than the second and third sentences of the second paragraph thereof), 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof.

It is expressly understood and agreed by and between the parties hereto, anything in this Agreement to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by United States Trust Company of New York or for the purpose or with the intention of binding the said bank personally but are made and intended for the purpose of binding only the Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank (except liability under the proviso contained in the last paragraph of Article 12 hereof) or the Beneficiary (except as provided in the Trust Agreement) or on account of any representation, undertaking or agreement of the Vendee or the Beneficiary, either expressed or implied, all such personal liability, if any,

being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Estate for satisfaction of the same.

ARTICLE 22. Law Governing. The Vendee warrants that its chief place of business is located in the state specified in clause (a) of Article 20 hereof. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of such state; 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.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, such counterparts together constituting but one and the same contract, but the counterpart delivered to the Assignee pursuant to the Assignments shall be deemed the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

GENERAL ELECTRIC COMPANY,

by _____
~~Vice~~ ~~President~~
GENERAL MANAGER -
LOCOMOTIVE OPERATIONS

[Corporate Seal]

Attest:

_____
~~Assistant~~ Secretary
ATTESTING

UNITED STATES TRUST COMPANY OF
NEW YORK, as Trustee

by _____
Asst Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF ERIE,)

On this 21 day of July 1977, before me personally appeared M.S. Richardson, to me personally known, who, being by me duly sworn, says that he is a General Manager L-O. of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and 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.

Collette Wronek
Notary Public

[Notarial Seal]

My Commission expires

COLLETTE WRONEK, NOTARY PUBLIC
LAWRENCE PARK TWP., ERIE CO., PENNA.
MY COMMISSION EXPIRES FEB. 10, 1979

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this 22nd day of July 1977, before me personally appeared Joseph Poggio, to me personally known, who, being by me duly sworn, says that he is an Asst. Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and 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.

Charles S. DePalma
Notary Public

CHARLES S. DePALMA
Notary Public, State of New York
No. 31-5990695
Qualified in New York County
Commission Expires March 30, 1978

[Notarial Seal]

My Commission expires

SCHEDULE I

Allocation Schedule of Each $1,000,000 of
Conditional Sale Indebtedness
Payable in Instalments on the 30
consecutive semiannual dates following the
earlier of (i) the last Closing Date under
this and the other two Conditional Sale Agreements
referred to in the Participation Agreement and (ii)
December 15, 1977

Payment Date	Interest Payment	Principal Payment	Debt Service	Ending Principal Balance
0	0.00	0.00	0.00	1,000,000.00
1	43,750.00	23,135.88	66,885.88	976,864.12
2	42,737.81	24,148.07	66,885.88	952,716.05
3	41,681.33	25,204.55	66,885.88	927,511.50
4	40,578.63	26,307.25	66,885.88	901,204.25
5	39,427.69	27,458.19	66,885.88	873,746.06
6	38,226.40	28,659.48	66,885.88	845,086.58
7	36,972.54	29,913.34	66,885.88	815,173.24
8	35,663.83	31,222.05	66,885.88	783,951.19
9	34,297.87	32,588.01	66,885.88	751,363.18
10	32,872.14	34,013.74	66,885.88	717,349.44
11	31,384.04	35,501.84	66,885.88	681,847.60
12	29,830.84	37,055.04	66,885.88	644,792.56
13	28,209.68	38,676.20	66,885.88	606,116.36
14	26,517.60	40,368.28	66,885.88	565,748.08
15	24,751.48	42,134.40	66,885.88	523,613.68
16	22,908.10	25,429.51	48,337.61	498,184.17
17	21,795.56	26,542.05	48,337.61	471,642.12
18	20,634.35	27,703.26	48,337.61	443,938.86
19	19,422.33	28,915.28	48,337.61	415,023.58
20	18,157.29	30,180.32	48,337.61	384,843.26
21	16,836.90	31,500.71	48,337.61	353,342.55
22	15,458.74	32,878.87	48,337.61	320,463.68
23	14,020.29	34,317.32	48,337.61	286,146.36
24	12,518.91	35,818.70	48,337.61	250,327.66
25	10,951.84	37,385.77	48,337.61	212,941.89
26	9,316.21	39,021.40	48,337.61	173,920.49
27	7,609.03	40,728.58	48,337.61	133,191.91
28	5,827.15	42,510.46	48,337.61	90,681.45
29	3,967.32	44,370.29	48,337.61	46,311.16
30	2,026.12	46,311.16	48,337.28	0.00

Annex A

to

Conditional Sale Agreement

Item 1: General Electric Company, a New York corporation, 2901 East Lake Road, Erie, Pennsylvania 16531.

Item 2: The Equipment shall be settled for in not more than ten Groups of units delivered to and accepted by the Vendee unless a greater number shall be agreed to by the parties hereto.

Item 3: (a) The Builder warrants to the Vendee that each unit of Equipment manufactured by it hereunder will be free from defects in material, workmanship and title under normal use and service, and will be of the kind and quality designated or described in the Specifications referred to in Article 2 of this Agreement. The foregoing warranty is exclusive and in lieu of all other warranties, whether written, oral, implied or statutory (except as to title). NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR PURPOSE SHALL APPLY. If it appears within two (2) years from the date of shipment by the Builder, or within 250,000 miles of operation, whichever event shall first occur, that the Equipment delivered by the Builder under this Agreement does not meet the warranties specified above, and the Vendee notifies the Builder promptly, the Builder, after verification as to condition and usage, shall correct any defect including nonconformance with the Specifications, at its option, either by repairing any defective part or parts made available to the Builder, or by making available at the Builder's plant or warehouse a repaired or replacement part. If requested by the Builder, the Vendee will ship the defective part or parts, with shipping charges prepaid, to the plant or warehouse designated by the Builder.

The liability of the Builder to the Vendee (except as to title) arising out of the supplying of any unit of Equipment hereunder, or its use, whether on warranty, contract or negligence, shall not in any

case exceed the cost of correcting defects in the Equipment as herein provided, and upon the expiration of the warranty period specified above, all such liability shall terminate. The Builder shall have no liability for any unit of Equipment or part thereof which becomes defective by reason of improper storage or application, misuse, negligence, accident or improper operation, maintenance, repairs or alterations on the part of the Vendee, or any third party other than the Builder. The foregoing shall constitute the sole remedy of the Vendee and the sole liability of the Builder.

It is understood that the Builder has the right to make any changes in design and add improvements to equipment at any time without incurring any obligations to install, at the Builder's expense, the same on other equipment sold by the Builder.

THERE ARE NO WARRANTIES WITH RESPECT TO MATERIAL AND WORKMANSHIP, EXPRESSED OR IMPLIED, MADE BY THE BUILDER EXCEPT THE WARRANTIES SET OUT ABOVE.

The Builder further agrees with the Vendee that neither the inspection as provided in Article 3 of this Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Vendee of any of its rights under this Item 3.

(b) In no event, whether as a result of breach of contract, warranty, tort (including negligence) or otherwise, shall the Builder or its suppliers be liable for any special, consequential, incidental or penal damages including, but not limited to, loss of profit or revenues, loss of use of the products or any associated equipment, damage to associated equipment, cost of capital, cost of substitute products, facilities, services or replacement power, down time costs, or claims of the Vendee's customers for such damages. If the Vendee transfers title to or leases the products hereunder to any third party (other than pursuant to the Lease), the Vendee shall obtain from such third party a provision affording the Builder and its suppliers the protection of the preceding sentence.

In no event, whether as a result of breach of contract, warranty, tort (including negligence) or otherwise, shall the Builder's liability to the Vendee for any loss or damage arising out of, or resulting from this agreement, or from its performance or breach, or from the products or services furnished hereunder, exceed the price of the specific product or service which gives rise to the claim. Except as to title any such liability shall terminate upon the expiration of the warranty period specified in subsection (a) of this Item 3 hereof. If the Builder furnishes the Vendee with advice or other assistance which concerns any product supplied hereunder or any system or equipment in which any such product may be installed and which is not required pursuant to this agreement, the furnishing of such advice or assistance will not subject the Builder to any liability, whether in contract, warranty, tort (including negligence) or otherwise.

The invalidity, in whole or in part, of any of the foregoing paragraphs will not affect the remainder of such paragraph or any other paragraph in this subsection (b).

Item 4: Except in cases of designs specified by the Vendee and the Lessee and not developed or purported to be developed by the Builder, and articles and materials specified by the Vendee and the Lessee and not manufactured by the Builder, the Builder warrants for itself that Equipment furnished hereunder, and any part thereof, shall be delivered free of any rightful claim of any third party for infringement of any United States patent. If notified promptly in writing and given authority, information and assistance, the Builder shall defend, or may settle, at its expense, any suit or proceeding against the Vendee or the Lessee so far as based on a claimed infringement which would result in a breach of this warranty and the Builder shall pay all damages and costs awarded therein against the Vendee or the Lessee due to such breach. In case any Equipment or part thereof is in such suit or proceeding found to constitute such an infringement and the use of such Equipment or part thereof is enjoined, the Builder shall, at its expense and option, either procure for the Vendee

and the Lessee the right to continue using said equipment or part thereof, or replace same within six months of such injunction with noninfringing Equipment or part thereof acceptable to the Vendee, or modify same so it becomes noninfringing, or remove the Equipment or part thereof and refund the Purchase Price (less reasonable depreciation for any period of use) and any transportation costs separately paid by the Vendee or the Lessee, but in each case without impairing the operational capability of such Equipment. (If the Purchase Price is so refunded, such refund shall be made to the assignee of the Builder's rights under this Agreement if this Agreement has been so assigned, which refund, to the extent of the unpaid Conditional Sale Indebtedness, shall be applied in like manner as payments in respect of Casualty Occurrences under Article 7 of this Agreement and, as long as no event of default or event which with the lapse of time and/or demand could constitute an event of default under this Agreement shall have occurred and be continuing, the balance shall be paid by such assignee to the Vendee.) The preceding shall not apply to the use of any Equipment or part thereof furnished hereunder in conjunction with any other product in a combination not furnished by the Builder as a part of this transaction. As to any such combination, the Builder assumes no liability whatsoever for patent infringement and the Vendee and the Lessee will hold the Builder harmless against any infringement claims arising therefrom. The Builder will give notice to the Vendee and the Lessee of any claim known to the Builder from which liability may be charged against the Vendee or the Lessee hereunder and the Vendee and the Lessee will give notice to the Builder of any claim known to them from which liability may be charged against the Builder hereunder.

The foregoing states the entire liability of the Builder for patent infringement by the Equipment or any part thereof.

Item 5: The Maximum Purchase Price of the Equipment referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is $19,039,469.43.

Item 6: The Maximum Conditional Sale Indebtedness referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is $12,756,444.52.

Annex B
to
Conditional Sale Agreement

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Unit Base Price	Total Base Price	Estimated Time and Place of Delivery
2,250 h.p. Model U23-B diesel-electric locomotive	3530	Erie, Pennsylvania	10	CR2789-2798	$467,000	$4,670,000	April, May and June 1977 at Erie, Pennsylvania
3,000 h.p. Model C30-7 diesel-electric locomotive	3390F, as amended by GE Pub. No. GEA 10016	Erie, Pennsylvania	10	CR6600-6609	$604,000	$6,040,000	July, August and September 1977 at Erie, Pennsylvania
2,250 h.p. Model B23-7 diesel-electric locomotive	3530, as amended by GE Pub. No. GEA 10016	Erie, Pennsylvania	17	CR2800-2816	$487,000	$8,279,000	July, August, September and October 1977 at Erie, Pennsylvania

ANNEX C

LEASE OF RAILROAD EQUIPMENT (A)

Dated as of April 15, 1977

between

CONSOLIDATED RAIL CORPORATION

and

UNITED STATES TRUST COMPANY OF NEW YORK,

as Trustee Under Trust Agreement (A)

THIS LEASE OF RAILROAD EQUIPMENT AMENDS AND RESTATES IN ITS ENTIRETY A LEASE OF RAILROAD EQUIPMENT DATED AS OF APRIL 15, 1977, BETWEEN CONSOLIDATED RAIL CORPORATION AND UNITED STATES TRUST COMPANY OF NEW YORK, AS TRUSTEE UNDER TRUST AGREEMENT (A).

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* This Table of Contents has been included in this document for convenience only and does not form a part of or affect any construction or interpretation of this document.

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LEASE OF RAILROAD EQUIPMENT dated as of April 15, 1977, between CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (hereinafter called the Lessee), and UNITED STATES TRUST COMPANY OF NEW YORK, a New York trust company, acting as Trustee (hereinafter called the Lessor) under a Trust Agreement (A) dated as of the date hereof (hereinafter called the Trust Agreement) with J. P. Morgan Interfunding Corp., a Delaware corporation (hereinafter called the Beneficiary).

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof with General Electric Company, a New York corporation, and a Conditional Sale Agreement dated as of the date hereof with General Motors Corporation (Electro-Motive Division), a Delaware corporation (said corporations being hereinafter called the Builders and said agreements being hereinafter called the Security Documentation), wherein the Builders have agreed to manufacture, conditionally sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto (hereinafter called the Equipment);

WHEREAS the Builders under certain Agreements and Assignments and, in the case of any assignment to the Beneficiary by the Builders of any of their interests in the Security Documentation, the Beneficiary under a Supplemental Assignment, are assigning their interests in the Security Documentation to Mellon Bank, N.A., acting as Agent (hereinafter, together with its successors and assigns, called the Vendor) under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessee, the Lessor, the Beneficiary, General Electric Credit Corporation and the investors named in Schedule A to the Participation Agreement (said investors being hereinafter called the Investors);

WHEREAS the Builders are willing to guarantee certain obligations of the Lessee under this Lease and of the Lessor under the Security Documentation pursuant to two Guaranty Agreements dated as of the date hereof (and each in its capacity as such guarantor is hereinafter sometimes called a Guarantor);

WHEREAS the Lessee desires to lease such number of

units of the Equipment as are delivered and accepted and settled for under the Security Documentation (hereinafter called the Units) at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the parties contemplate that the Lessor will assign for security purposes certain of its rights in this Lease to the Vendor by an Assignment of Lease, Reassignment and Agreement dated as of the date hereof (hereinafter called the Lease Assignment), and the Lessee will consent to such assignment by a Consent and Agreement (hereinafter called the Consent);

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 upon the following terms and conditions, both parties intending to be legally bound:

§ 1. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against or recoupment of rent, including, but not limited to, abatements, reductions, setoffs or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of the Lessee against the Lessor under this Lease or under the Security Documentation, or against the Builders or the Vendor or otherwise. The Lessee's obligations hereunder, including its obligations to pay all rentals, additional rentals and other amounts hereunder, shall be absolute and unconditional under any and all circumstances, and, except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the respective 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 whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any 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.

§ 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Documentation. The Lessor will cause each Unit to be delivered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Documentation. Upon such delivery, the Lessee will cause an employee of the Lessee to inspect the same and, if such Unit is found to be acceptable, to accept delivery of such Unit, and the Lessee shall execute and deliver to the Lessor a certificate of acceptance (hereinafter called the Certificate of Acceptance) substantially in the form annexed hereto as Schedule C-1 or C-2, as the case may be, in accordance with the provisions of Article 3 of the Security Documentation, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next sentence hereof, 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 of Equipment excluded from the Security Documentation pursuant to the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such unit to this Lease or to constitute acceptance thereof on behalf of the Lessor for any purpose whatsoever.

§ 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for the Units subject to this Lease, 32 consecutive payments payable (i) on the Take-Out Date (as defined in the Participation Agreement), (ii) on the earlier of (x) the last Closing Date (under and as defined in the Security Documentation and in the two other Conditional Sale

Agreements referred to in the Participation Agreement) and (y) December 15, 1977 (such date being hereinafter called the Basic Rent Commencement Date), and (iii) on the 30 consecutive dates occurring semiannually following the Basic Rent Commencement Date. The rental payable on the Take-Out Date for each Unit shall be in an amount equal to the product of (a) the number of days elapsed from and including the Closing Date for such Unit to, but not including, the Take-Out Date, times (b) 0.023973% of the Purchase Price (as defined in the Security Documentation) of such Unit. The rental payable on the Basic Rent Commencement Date for each Unit shall be in an amount equal to the product of (a) the number of days elapsed from and including the Closing Date for such Unit or the Take-Out Date, whichever is later, to, but not including, the Basic Rent Commencement Date, times (b) 0.020584% of the Purchase Price of such Unit. The next 30 rental payments shall each be in an amount equal to 4.77662% of the Purchase Price of each Unit then subject to this Lease, which rate includes the semiannual guarantee fee (equal to .25% of the Purchase Price of each Unit then subject to this Lease) to be paid by the Lessee to the Builders in respect of the Builders' obligations under the Guaranty Agreements (and the Builders shall be third-party beneficiaries of the Lessee's obligation to pay such guarantee fee hereunder). If there is a change effective for the year 1977, for which the Beneficiary is not responsible, in the assumptions utilized by the Beneficiary (as set forth in § 16 hereof) in originally calculating such rentals, the Lessor and the Lessee agree that the rentals payable hereunder and the Casualty Value percentages set forth in Schedule B hereto will be appropriately adjusted upward or downward so that the Beneficiary's after-tax rate of return and periodic recovery of net cash flow will be at least the same as they would have been had there been no change in such assumptions. The Lessor and the Lessee further agree that if there is a reduction in the amounts payable by the Builders in respect of the Builders' obligations under the Guaranty Agreements, the portion of the rentals payable hereunder attributable to the guarantee fee referred to above will be adjusted downward to reflect such reduction. Notwithstanding anything to the contrary set forth herein, the rentals and Casualty Value percentages, as adjusted pursuant to the preceding two sentences, shall be sufficient to satisfy the obligations of the Lessor under the Security Documentation, regardless of any limitation of liability set forth therein.

In addition to the foregoing rentals, the Lessee hereby agrees to pay to the Lessor as additional rentals

amounts which, after deduction of any taxes payable in respect of such amounts, will be equal to the amounts required by the Lessor to make the payments provided for (a) in the penultimate sentence of the third paragraph of Paragraph 2, (b) in the last sentence of the penultimate paragraph of Paragraph 9 and (c) in clause (B) of the last paragraph of Paragraph 9 of the Participation Agreement on the dates the Lessor is required to make such payments (without regard to any limitation of the obligation of the Lessor set forth therein) and the Lessor agrees to apply such rentals for such purposes.

If any of the rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next preceding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Pittsburgh, Pennsylvania, are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, including, but not limited to, the payments provided for in this § 3 and in § 7 hereof, at the principal office of the Vendor, for the account of the Lessor in care of the Vendor, with instructions to the Vendor first, to apply such payments to satisfy the obligations of the Lessor under the Security Documentation, and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default under the Security Documentation shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing; provided, however, that the Lessee shall make all payments provided for in § 6 and in § 16 hereof directly to the person entitled to receive them, as provided in the Lease Assignment. The Lessee agrees to make each payment provided for herein (other than the payments described in the proviso to the preceding sentence) as contemplated by this paragraph in Federal or other funds immediately available to the Vendor by 11:00 a.m., Pittsburgh time, on the date such payment is due. Provided that no Event of Default (as hereinafter defined) described in subparagraph (A) of § 10 hereof, or other event which with notice or lapse of time or both would become such an Event of Default, shall have occurred in respect of such payments, the Lessor shall pay to the Builders, out of the payments received by it from the Vendor pursuant to the first sentence of this paragraph, an amount equal to the semiannual

fee payable by the Lessee to the Builders, as referred to in the first paragraph of this § 3.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 9, 14 and 16 hereof) shall survive the expiration or termination of the term of this Lease and the full payment of all amounts payable under this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the Security Documentation. If an event of default should occur under the Security Documentation, the Vendor may terminate this Lease (or rescind its termination), all as provided therein; provided, however, that, so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 12 hereof.

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Schedule A hereto, or, in the case of any Unit not there listed, such identification number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Ownership subject to a Conditional Sale Agreement filed under the Interstate Commerce Act, Section 20c", with appropriate changes thereof and additions thereto as from time to time may be required by law, in the opinion of the Vendor, in order to protect the Lessor's and the Vendor's title to and interest in such Unit and the rights of the Lessor under this Lease and the rights of the Vendor under the Security Documentation. 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 and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessee will not change the iden-

tification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Documentation shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Lessor's rights in such Units and no other filing, recording, deposit or giving of notice with or to any federal, state or local government or agency thereof is necessary to protect the rights of the Vendor and the Lessor in such Units.

Except as provided in the immediately preceding paragraph, 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 Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

§ 6. Taxes. The Lessee assumes responsibility for and agrees to pay, and agrees to protect, save, keep harmless and indemnify on an after-tax basis the Lessor and the Beneficiary and their successors and assigns (hereinafter called the Indemnified Persons) against, all taxes, fees, withholdings and other governmental charges of any nature whatsoever, including without limitation penalties and interest (all such taxes, fees, withholdings, governmental charges, penalties and interest being hereinafter called Taxes), imposed on, incurred by or asserted against any Indemnified Person or the Units in whole or in part on account of, or with respect to, this Lease or the Security Documentation or any document referred to herein or therein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Units or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, operation, maintenance, repair, condition, sale, return or other disposition of the Units or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall be no indemnification hereunder for (i) any Taxes imposed on or measured by any fees or compensation received by the Lessor, and (ii) Federal income Taxes and income or franchise Taxes imposed on the Beneficiary or its successors and assigns by

any jurisdiction in which the Beneficiary or its successors and assigns has an office, except to the extent that indemnification is provided for in § 16 hereof. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this § 6 within ten days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question; provided, however, that if any Taxes are being contested in accordance with the sixth paragraph of this § 6, any payment shall be made at the time therein provided.

In the event that the Lessor shall become obligated to make any payment to the Builders or either of them or the Vendor or otherwise pursuant to any corresponding provision of the Security Documentation (other than the proviso to the third paragraph of Article 12) not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

In the event any returns, statements or reports with respect to Taxes are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor and the Vendor in such Units; provided, however, that the Lessor shall, with respect to any state or political subdivision thereof of the United States of America, file such returns, statements, and reports relating to sales or use taxes, and taxes, fees, and charges on or measured by the Lessor's earnings or gross receipts arising from the Units, or the value added by the Lessor thereto, as the Lessee shall determine are required to be filed, and as shall be prepared by the Lessee, and shall remit the amount thereof upon payment by the Lessee to the Lessor (such payment to be made promptly upon demand by the Lessor therefor) of such taxes, fees and charges except as provided above. To the extent that the Lessor has information necessary to the preparation of such returns, statements and reports, it will furnish such information to the Lessee.

To the extent that the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Lessor hereby authorizes the Lessee to act in its own name and on its behalf; provided, however, that the Lessee shall indemnify and hold the Lessor and the Beneficiary

harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit the Lessor's compliance with the requirements of taxing jurisdictions.

If any taxing authority shall assert liability for any Taxes or propose an increase in the liability of any Indemnified Person for any such Taxes (such assertion or such proposed increase being hereinafter called a Claim), indemnification for which would be required under this § 6, the Indemnified Person will notify the Lessee within a reasonable time of such Claim in writing. If the Lessee delivers to such Indemnified Person written notice of its desire to contest such Claim within 30 days after receipt of notice from such Indemnified Person, such Claim will be contested in accordance with this paragraph, except to the extent such Claim represents amounts payable to the Vendor under Article 6 of the Security Documentation. The Lessor will permit the Lessee to contest such Claims under Article 6 of the Security Documentation in accordance with the rights of the Lessor thereunder. The Indemnified Person shall have the exclusive right to conduct the contest unless such right is waived in writing, in which event the contest and all preparations therefor shall be the sole responsibility of the Lessee and, in either case, shall be conducted entirely at its expense. Such Indemnified Person will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that such Indemnified Person may in its sole discretion determine in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit for refund and such Indemnified Person shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify such Indemnified Person in a manner satisfactory to such Indemnified Person for any liability or loss which such Indemnified Person may incur as a result of contesting the validity of any Claim and shall have agreed to pay such Indemnified

Person on demand all costs and expenses which such Indemnified Person may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to such Indemnified Person on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by any Indemnified Person of a refund of any Taxes paid by the Lessee pursuant to this paragraph, the amount of such refund and any interest paid to such Indemnified Person with respect thereto shall be paid to the Lessee forthwith upon receipt by such Indemnified Person.

The Lessee covenants and agrees to pay all amounts due under this § 6 free of any Taxes and to indemnify each Indemnified Person against any Taxes imposed by reason of any payment made by the Lessee so that the Indemnified Person to whom or for whose benefit the payment is made shall receive an amount which, net of any Taxes or other charges required to be paid by such Indemnified Person in respect thereof, shall be equal to the amount of payment otherwise required hereunder.

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

This § 6 may be enforced by the Lessor as provided in Paragraph 19 of the Participation Agreement.

§ 7. Maintenance; Casualty Occurrences; Insurance. The Lessee at its own expense will maintain and service each Unit and comply with a preventive maintenance schedule consistent with the respective Builder's preventive maintenance schedules and which will include testing, repair and overhaul of each Unit so that each Unit will remain (a) in as good operating condition as when delivered (ordinary wear and tear excepted), (b) in compliance with any and all applicable laws and regulations, and (c) desirable to and suitable for immediate purchase or lease and use by a Class I line-haul railroad (not then or prospectively a debtor in any insolvency or reorganization proceedings) in the event of resale or release upon default by the Lessee. In no event shall any Unit be maintained or scheduled for maintenance on a basis less frequent than the maintenance or maintenance scheduling basis employed as of the date hereof by the Lessee for similar equipment. No later than the last business day of February and August of each year, commencing in February 1978, the Lessee will furnish the Lessor with a certificate

(hereinafter called Maintenance Certificate A) of a qualified engineer satisfactory to the Lessor (i) setting forth the identification numbers of all Units which are then in the condition required by clauses (a), (b) and (c) of the first sentence of this § 7 and certifying that all such Units are in such condition, and (ii) setting forth the identification numbers of all Units which are not in such condition together with the estimated cost required with respect to each such Unit in order to comply with the maintenance requirements of this § 7 as to each such Unit. No later than the last business day in April and October of each year, commencing in April 1978, the Lessee will furnish the Lessor with a certificate (hereinafter called Maintenance Certificate B) of a qualified engineer satisfactory to the Lessor setting forth the identification number of each Unit that was not certified in the preceding February or August Maintenance Certificate A, as the case may be, as being in the condition required by clauses (a), (b) and (c) of the first sentence of this § 7, and, as to each such Unit, (i) certifying that such Unit is in such condition as of the date of such Maintenance Certificate B, or (ii) stating that such Unit is not in such condition. The Lessee and the Lessor have entered into a Maintenance Agreement dated as of the date hereof (hereinafter called the Maintenance Agreement), with respect to certain obligations of the Lessee in the event that any Unit listed on a Maintenance Certificate A as not being in the condition required by clauses (a), (b) and (c) of the first sentence of this § 7 is not certified on the next scheduled Maintenance Certificate B as being in such condition.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, permanently returned to the Builder pursuant to any patent indemnity provision of the Security Documentation, or taken or requisitioned by condemnation or otherwise by the United States Government for a period which shall exceed the then remaining term of this Lease (or, if such taking, requisition or condemnation shall occur during a renewal term, for a period which shall exceed the then remaining renewal term), or by any other government or governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days, or if a Default under Section 2 of the Maintenance Agreement shall have occurred with respect to such Unit (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in § 14 hereof,

the Lessee shall promptly (but in any event within 30 days after such Casualty Occurrence) and fully notify the Lessor, the Beneficiary and the Vendor with respect thereto. On the earlier of (i) the sixtieth day following such notice and (ii) the rental payment date next succeeding such notice (but not earlier than the first scheduled rental payment date following the Basic Rent Commencement Date) the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit then due and payable or accrued to such date (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the rental payment date on or next preceding the date of such Casualty Occurrence in accordance with the schedule referred to below. 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 the 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 and shall notify the Lessor prior to any such purchase by the Lessee. Provided that the Lessee has previously paid the Casualty Value to the Lessor and provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, 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 a Builder pursuant to any patent indemnity provision of the Security Documentation an amount equal to any patent indemnity payment in respect of the Purchase Price of such Unit made by such Builder to the Vendor under the Security Documentation.

The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in § 16 hereof). Consequently, the

Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

Whenever any Unit shall suffer a Casualty Occurrence after the final payment of rent in respect thereof is due pursuant to § 3 or § 13 hereof and before such Unit shall have been returned in the manner provided in § 14 hereof, the Lessee shall promptly (as provided above) and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 20% of the Purchase Price of such Unit, except that if the term of this Lease shall have been extended pursuant to § 13 hereof, then the applicable Casualty Value shall be (i) during the first five-year renewal term and, if there shall be no second five-year renewal period, thereafter, 20% of the Purchase Price of such Unit, (ii) during the second five-year renewal term, the fair market value of such Unit as of the rental payment date on or next preceding such Casualty Occurrence determined as provided in the following sentence, and (iii) thereafter, the fair market value of such Unit as of the last rental payment date during such second five-year renewal period. For the purposes of the preceding sentence, the term "fair market value" of a Unit shall, at the beginning of such second five-year renewal period, be equal to the Fair Market Purchase Price of such Unit at such time determined in accordance with the provisions of § 13 hereof, and shall decline on a straight-line basis to the estimated Fair Market Purchase Price of such Unit at the end of such second five-year renewal period determined in accordance with the provisions of § 13 hereof. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction 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 and shall notify the Lessor prior to any such purchase by the Lessee. Provided that the Lessee has previously paid the Casualty Value to the Lessor and provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, 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.

In the event of the requisition (other than a requisition which constitutes a Casualty Occurrence) for use by the United States Government or by any other government or governmental entity (hereinafter collectively called the Government) of any Unit during the term of this Lease or any renewal thereof, all of the Lessee's obligations (including without limitation the obligation to pay rent) under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease or any renewal thereof, but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof shall be paid over to, or retained by, the Lessee, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the term of this Lease or any renewal thereof, shall be paid over to, or retained by, the Lessor.

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

The Lessee will, at all times prior to the return of the Equipment to the Lessor, at its own expense, cause to be carried and maintained casualty insurance and public liability insurance in respect of the Units at the time subject hereto, against such risks, in such amounts and on such terms and conditions as are satisfactory to the Lessor and the Vendor, and, in any event, comparable in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it, but in no event shall such coverage be for amounts or against risks less than the prudent industry standard for Class I line-haul railroads.

If the Casualty Value at any given time is less that what the deductible would be under the foregoing standard, then no casualty insurance need be carried. All policies with respect to such insurance shall name the Lessor, the Beneficiary and the Vendor as additional named insureds or loss payees, as their interests may appear, shall provide for at least 30 days' prior written notice by the insurance carrier to the Lessor, the Beneficiary and the Vendor in the event of cancelation, expiration or amendment (and the Lessee shall provide 30 days' prior written notice to the Lessor, the Beneficiary and the Vendor in any such event), shall include waivers by the insurer of all claims for premiums against the Lessor, the Beneficiary and the Vendor and shall provide that losses are payable notwithstanding, among other things, any act of negligence of the Lessee, the Lessor, the Beneficiary or the Vendor, more hazardous use or occupation of the Equipment than that permitted by such policies, any breach or violation by the Lessee, the Lessor, the Beneficiary or the Vendor of any warranty, declaration, condition or other provision contained in any such policy, or foreclosure, notice of sale or any other proceeding in respect of the Equipment, or any change in the title to or ownership of any of the Equipment. Each such insurance policy shall expressly provide that all of the provisions thereof except the limits of liability (which shall be applicable to all insureds as a group) and liability for premiums (which shall be solely a liability of the Lessee) shall operate in the same manner as if they were a separate policy covering each insured and shall be primary without right of contribution from any insurance carried by the Lessor, the Beneficiary or the Vendor. The Lessee shall, not later than June 15 of each year, commencing June 15, 1978, furnish to the Lessor and the Vendor a certificate of an independent insurance broker acceptable to the Lessor evidencing the maintenance of the insurance required hereunder and shall furnish certificates evidencing renewal 15 days prior to the expiration date of such policy or policies. In the event that the Lessee shall fail to maintain insurance as herein provided, the Vendor or the Beneficiary may at its option on five business days' prior written notice to the Lessee provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Vendor or the Beneficiary, as the case may be, for the cost thereof together with interest on the amount of such cost from the date of payment thereof at an annual rate of 10.5%. If the Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor shall, subject to the Lessee's having made payment of

the Casualty Value in respect of such Unit and provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

§ 8. Reports. On or before April 30 in each year, commencing with the calendar year 1978, the Lessee will furnish to the Lessor and the Vendor (i) a certificate signed by the Chief Executive Officer, Chief Operating Officer or Vice President of Operations or the Chief Mechanical Officer of the Lessee (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Documentation, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the Security Documentation have been preserved or replaced; and (ii) a certificate signed by the President or the senior financial officer, any Vice President, or any Assistant Treasurer of the Lessee stating that he has reviewed the activities of the Lessee during such year and that to the best of his knowledge the Lessee during such year has kept, observed, performed and fulfilled each and every covenant, obligation and condition contained in this Lease, or if an Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, specifying such Event of Default and all such events and the nature and status thereof. The Lessor, at its sole cost and expense, shall have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may

request during the continuance of this Lease.

In addition to the foregoing, the Lessee shall promptly notify the Lessor and the Vendor of any occurrence of an Event of Default or other event which after notice or lapse of time or both would become an Event of Default, specifying such Event of Default and all such events and the nature and status thereof.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. 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, OR AS TO THE LESSEE'S RIGHT TO QUIET ENJOYMENT THEREOF (EXCEPT AS TO ACTS OF THE LESSOR), OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes 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 the 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 against a Builder under the provisions of Items 3 and 4 of Annex A to the Security Documentation; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, subleasing, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert

any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads, if applicable, 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, prior to the expiration of this Lease or any renewal thereof, such laws or rules require any alteration, replacement, addition or modification of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, 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, the Beneficiary or the Vendor, adversely affect the property or rights of the Lessor, the Beneficiary or the Vendor under this Lease or under the Security Documentation. The Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely and materially affect the value of the Units). The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are described in the following sentence. Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of the provisions contained hereinabove, (ii) the cost of which is included in the Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit by the interchange rules of the Association of American Railroads or by the regulations of the Interstate Commerce Commission, the United States Department of Transportation or any other regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created

by the Security Documentation) shall immediately be vested in the Lessor.

The Lessee agrees to indemnify, protect and hold harmless the Lessor, the Beneficiary and the Vendor from and against all losses, damages, injuries, liabilities, claims (including without limitation claims for strict liability in tort) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent, trademark and copyright liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of a default, an event of default or an Event of Default under the Security Documentation, the Participation Agreement, this Lease, the Maintenance Agreement or any sublease entered into pursuant to Section 12 hereunder, the ownership of any Unit, the manufacture, ordering, acquisition, use, operation, condition, purchase, sublease, delivery, nondelivery, acceptance, rejection, storage or return of any Unit 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, except as otherwise provided in § 14 of this Lease, or the transfer of title to the Equipment by the Vendor pursuant to any provision of the Security Documentation; provided, however, that the foregoing indemnification shall not apply to any failure to pay the principal of or interest on the Conditional Sale Indebtedness (as defined in the Security Documentation) or constitute a guaranty of the residual value of the Units. 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 expiration or termination of the term of this Lease.

The Lessee shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of any or all of the Units of 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 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 Vendor of the Units or the leasing thereof to the Lessee.

§ 10. Default. If, during the continuance of this

Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

(A) default shall be made in payment of any amount provided for in § 3, 7 or 13 hereof, and such default shall continue for five business days;

(B) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

(C) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement or in Section 5 of the Maintenance Agreement, and such default shall continue for 30 days after the earlier of (i) written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied and (ii) the date on which such default shall first become known to any officer of the Lessee;

(D) a petition for reorganization under Section 77 of the Bankruptcy Act (as now constituted or as hereafter amended, including any successor provision thereto) 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 and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier;

(E) any other proceeding shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does

not permit any readjustments of the obligations of the Lessee hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee, or for the property of the Lessee, in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

(F) the occurrence of any of the following:

(i) Involuntary Bankruptcy Proceedings--a receiver, liquidator or trustee of the Lessee or of any of its property is appointed by court order and such order remains in effect for more than 30 days; or the Lessee is adjudicated bankrupt or insolvent; or any of its property is sequestered by court order and such order remains in effect for more than 30 days; or a petition is filed against the Lessee under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within 30 days after such filing;

(ii) Voluntary Petitions--the Lessee files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under any such law; or

(iii) Assignments for Benefit of Creditors, etc.--the Lessee makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they

become due, or consents to the appointment of a receiver, trustee or liquidator of the Lessee or of all or any part of its property;

followed by a good faith determination by the Vendor or the Lessor and notification thereof to the Lessee within 45 days following any such occurrence that, as a result, it will be inadequately secured;

(G) an Event of Default shall occur under the Lease of Railroad Equipment dated as of the date hereof between the Lessee and United States Trust Company of New York, as Trustee under a Trust Agreement (B) dated as of the date hereof with J. P. Morgan Interfunding Corp. and General Electric Credit Corporation; or

(H) Section 77(j) of the Bankruptcy Act (or any successor provision thereto providing similar protection and benefits for creditors of railroads) is repealed, not carried forward in subsequent legislation or otherwise unavailable to the Lessor or the Vendor, and there shall then exist or thereafter be a default under, or an event shall occur or shall have occurred which, with the giving of notice or the lapse of time or both, would become a default under any agreement or instrument then or thereafter binding upon the Lessee or to which it then is or thereafter becomes a party or to which any of its property is or thereafter becomes subject;

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 including net after-tax losses of Federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease; 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, subject to compliance with all mandatory requirements of law, enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate,

lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to (A) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 8.75% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated plus (B) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of any Federal, state or local government or taxing authority of the United States of America or under the laws of any taxing authority or governmental subdivision of a foreign country, shall, in the reasonable opinion of the Lessor, be equal to all or such portion of the Investment Credit (as defined in § 16 hereof) lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 16 or any other provision of this Lease or the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default, plus such sum as shall cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the ADR Deductions and the Interest Deduction

(as such deductions are defined in § 16 hereof) which was lost, not claimed, not available for claim or disallowed or recaptured in respect of a Unit as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 16 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to the Lessor by the Lessee, the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessee or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default plus such sum as will pay or reimburse the Lessor for any interest, penalties or additions to tax incurred in connection with such loss, failure to claim, inability to claim, disallowance or recapture; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale.

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

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, 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 not, at the time in question, prohibited 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 such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf. The Lessee hereby waives any and all claims against the Lessor and the Vendor and their agent or agents for damages of whatever nature in connection with any retaking of any Unit in any reasonable manner. The Lessor and the Lessee agree that the Lessor shall be entitled to all rights (such rights being fundamental to the willingness of the Lessor to enter into this Lease) 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 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.

No failure by the Lessor to exercise, and no delay by the Lessor in exercising, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege by the Lessor preclude any other or further exercise thereof, or the exercise of any other right, power or privilege.

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the condition required by clauses (a), (b) and (c) of the first sentence of § 7 hereof. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) place such Units upon such storage tracks of the Lessee or any of its affiliates as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and 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 assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in the condition required by clauses (a), (b) and (c) of the first sentence of § 7 hereof and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All rent and per diem charges 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. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which 0.026537% of the Purchase Price of such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

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 the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder shall inure to the benefit of the Lessor's successors and assigns.

So long as (i) no Event of Default exists here-

under, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and, without the prior written consent of the Lessor and the Vendor, the Lessee may sublease the Units to, or permit their use by, a user incorporated in the United States of America (or any State thereof or the District of Columbia), upon lines of railroad owned or operated by the Lessee or such user or by a railroad company or companies incorporated in the United States of America (or any State thereof or the District of Columbia), or over which the Lessee, such user, or such railroad company or companies have trackage rights or rights for operation of their trains, and upon the lines of railroad of connecting and other carriers in the usual interchange of traffic or in through or run-through service, but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Vendor's and the Lessor's consent, not to be unreasonably withheld, must be obtained for any sublease that is for a term longer than six months; provided, further, however, that the Lessee shall not sublease or permit the sublease or use of any Unit to service involving operation or maintenance outside the United States of America except that occasional service in Canada shall be permitted so long as such service in Canada does not involve regular operation and maintenance outside the United States of America; and provided, further, however, that any such sublease or use shall be consistent with the provisions of § 16 hereof. No such assignment or sublease shall relieve the Lessee of its obligations hereunder which shall be and remain those of a principal and not a surety.

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 created by the Lessor, the Beneficiary or the Vendor or resulting from claims against the Lessor, the Beneficiary or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises.

§ 13. Renewal and Purchase 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 six months prior to the

end of the original term or any extended term of this Lease, as the case may be, (i) elect to extend the term of this Lease in respect of all but not fewer than all of the Units then covered by this Lease, for one or two additional five-year periods commencing on the scheduled expiration of the original term or extended term of this Lease, as the case may be, provided that no such extended term shall extend beyond December 15, 2002, at a Fair Market Rental (as defined below) payable in semiannual payments, commencing six months after the next preceding rental payment date, in each year of such extended term; or (ii) after the first additional five-year rental period, as provided above, purchase all but not fewer than all of the Units then subject to this Lease, at a Fair Market Purchase Price (as defined below) payable at the end of such first additional rental period.

Fair Market Rental and Fair Market Purchase Price shall be determined on the basis of, and shall be equal in amount to, the cash rental for a five-year period or the purchase price, as the case may be, which would obtain in an arm's-length transaction between an informed and willing lessee or purchaser and an informed and willing lessor or seller, as the case may be, under no compulsion to lease or sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental or purchase price. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease or to exercise its purchase option, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental or Fair Market Purchase Price of the Units, such rental or purchase price shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such rental or purchase price by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers so appointed shall within 35 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may request the American Arbitration Association to make such appointment, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended

term or the Fair Market Purchase Price, as the case may be, within 70 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental or Fair Market Purchase Price, as the case may be, of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from that of the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental or Fair Market Purchase Price, as the case may be. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental or Fair Market Purchase Price, as the case may be, and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Lessor.

Upon payment of the purchase price of any Unit, pursuant to an election by the Lessee to purchase the Units, 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 warranties) for such Unit such as will transfer to the Lessee such title to such Unit as the Lessor derived from the Vendor, free and clear of all liens, security interests and other encumbrances arising through the Lessor.

§ 14. Return of Units upon Expiration of Term. The Lessor intends to retain the Units for re-lease at the expiration of the term of this Lease. As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee as the Lessor may designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding 60 days following notification to the Lessor by the Lessee that all the Units have been assembled and delivered for storage and transport the same, at any time within such sixty-day period, to any reasonable place on the lines of railroad operated by the Lessee, or to

any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee (except for the insurance required by § 7 hereof which shall be provided at the Lessor's expense); and in the event that any Unit shall suffer a Casualty Occurrence during such storage period, the Lessee shall pay the Lessor the Casualty Value thereof as provided in § 7 hereof. 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, lessee or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence or strict liability of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, on behalf of either the Lessor or any prospective purchaser, lessee or user, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this § 14 shall be in the condition required by clauses (a) and (b) of the first sentence of § 7 hereof. The assembling, 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 assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in the condition required by clauses (a) and (b) of the first sentence of § 7 hereof and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All rent and per diem charges 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. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which 0.026537% of the Purchase Price of such Unit (or, in the case of Units returned following any renewal term, the amount which is the product of the Purchase Price of such Unit times a fraction the numerator of which is the semi-annual rental factor (expressed as a percentage of the Purchase Price) for such Unit in effect for such preceding renewal term and the denominator of which is 180) for each such day exceeds the actual earnings received by the Lessor

on such Unit for each such day.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the Security Documentation, any assignment hereof or thereof, and the Chattel Mortgage (as defined in the Participation Agreement) 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 (and 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 undertake the filing, registering, deposit, and recording required of the Lessor under the Security Documentation 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 redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective rights in the Units, or for the purpose of carrying out the intention of this Lease, the Security Documentation, the assignments thereof to the Vendor and the Chattel Mortgage; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing, recording and other acts which may be required under this § 15, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor; provided, however, that no such opinion of counsel need be furnished in respect of the filing of the Security Documentation, the assignment thereof, or the Chattel Mortgage in Canada. This Lease and the Security Documentation shall be filed and recorded with the Interstate Commerce Commission and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision shall be made for publication of notice of such deposit in The Canada Gazette prior to the delivery and acceptance hereunder of any Unit.

§ 16. (a) Indemnity for Federal and Other Income Tax Benefits. This Lease has been entered into on the assumption that the Beneficiary (A) as the beneficial owner of the Units, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended (hereinafter called the Code), and state and local taxing statutes to an owner of property, including, without limitation, (1) deductions for depreciation of the Units under section 167 of the Code (herein called the ADR Deductions) computed on the basis (i) that the

Units will have a depreciable basis under section 167(g) of the Code at least equivalent to the Purchase Price plus 33% of the transaction expenses attributable thereto borne by the Beneficiary or the Lessor and that the Federal corporate income tax rate in effect for 1977 will be 48%, (ii) of the double-declining balance method of depreciation authorized by section 167(b)(2) of the Code, switching to the sum-of-the-years-digits method of depreciation authorized by section 167(b)(3) of the Code when most beneficial to the Beneficiary, (iii) of the asset depreciation range system of Treasury Regulation Section 1.167(a)-11, using the half-year convention, (iv) of an asset depreciation period of 12 years, and (v) of a salvage value of zero after the reduction in accordance with section 167(f)(1) of the Code, (2) deductions with respect to interest payable on the Conditional Sale Indebtedness (as defined in the Security Documentation) and the guarantee fees payable to the Guarantors (herein called the Interest Deduction) for any period during which the Conditional Sale Indebtedness is held by any person other than the Beneficiary and (3) the investment credit pursuant to section 38 of the Code for "new section 38 property" (herein called the Investment Credit) equal to 10% of the depreciable basis referred to above and (B) shall be entitled to treat each item of income, deduction and credit with respect to this Lease and the Maintenance Agreement as attributable to sources within the United States.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing and that the Lessee and any corporation controlled by it, in control of it or under common control with it, directly or indirectly, will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof.

The Beneficiary will claim on its Federal, state and local income tax returns the Investment Credit, the ADR Deductions and the Interest Deduction to the extent that any opinion or advice of counsel satisfactory to the Beneficiary confirms its entitlement thereto.

If under any circumstances or for any reason whatsoever the Beneficiary shall not be allowed all or any portion of the ADR Deductions, the Interest Deduction or the Investment Credit, or if the ADR Deductions or the Investment Credit with respect to any portion of the Equipment is recaptured in whole or in part pursuant to section 1245 or

section 47 of the Code, or if the Beneficiary, in computing its taxable income for Federal income tax purposes, shall not have, shall lose the right to claim (including a good faith determination based upon advice of tax counsel of the Beneficiary that such claim is not allowable), shall suffer a disallowance of or be required to recapture an amount of foreign tax credit which would have been allowable to the Beneficiary if the Beneficiary had not participated in the transactions contemplated by this Lease (hereinafter called the Foreign Tax Credit) (any such event being hereinafter called a Loss), then the Lessee shall pay to the Beneficiary such amount or, from time to time, such amounts as, after deduction of all taxes required to be paid by the Beneficiary in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority, shall be equal to the sum of the aggregate additional Federal, state or local income taxes payable by the Beneficiary from time to time as a result of any such Loss. If, as a result of a Loss, the aggregate Federal, state or local income taxes, including penalties and interest, if any, paid by the Beneficiary for any taxable year shall be less than the amount of such taxes which would have been payable by the Beneficiary had no such Loss occurred, then the Beneficiary shall pay the Lessee the amount of such difference in taxes, plus any additional tax benefits realized by the Beneficiary as the result of such payment; provided, however, that the Beneficiary shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Beneficiary pursuant to this subsection (a) in respect of a Loss, less (y) the amount of all prior payments by the Beneficiary to the Lessee pursuant to this sentence. The amount payable to the Beneficiary pursuant to this paragraph shall be paid within 30 days after receipt of a written demand therefor from the Beneficiary (but not prior to five business days prior to the payment of additional tax which becomes due as the result of the Loss), accompanied by a written statement describing in reasonable detail such Loss and the computation of the amount so payable. Any payment due to the Lessee from the Beneficiary pursuant to this paragraph shall be paid within 30 days after the Beneficiary realizes any such savings in its income taxes or additional tax benefits, as the case may be.

Notwithstanding anything to the contrary hereinbefore set forth, no amount shall be payable to the Beneficiary as an indemnity under this § 16 in respect of any Loss to the extent that such Loss is a direct result of the occurrence of any of the following events:

(i) a voluntary transfer or other voluntary disposition by the Lessor of any interest in the Equipment, or a voluntary transfer or other voluntary disposition by the Beneficiary of part or all of its interest in the trust estate under the Trust Agreement unless, in each case, an Event of Default shall have occurred and be continuing;

(ii) the failure of the Beneficiary to claim the Investment Credit, the ADR Deductions or the Interest Deduction;

(iii) the failure of the Beneficiary to have sufficient liability for Federal income tax against which to credit such Investment Credit or the Foreign Tax Credit or to have sufficient income to benefit from the ADR Deductions or the Interest Deduction, as the case may be;

(iv) a Casualty Occurrence if the Lessee shall have paid the Casualty Value pursuant to § 7;

(v) any other acts or omissions of the Beneficiary or the Lessor inconsistent with the transactions contemplated hereby; and

(vi) changes in law which do not take effect in 1977.

(b) Indemnity for Improvements and Deposits. If at any time the Beneficiary is required by the Internal Revenue Service to include in its gross income an amount in respect of any improvement or addition to the Equipment or action required to be taken by the Lessee pursuant to the Maintenance Agreement (hereinafter called Capital Expenditures) or an amount in respect of any funds deposited as Escrow Funds under and as defined in the Guaranty Agreements (hereinafter called the Deposits), then the Lessee shall pay to the Beneficiary, as an indemnity, such amount or amounts as, after deduction of all taxes required to be paid by the Beneficiary in respect of the receipt of such amounts under the laws of any Federal, state or local taxing authority, shall be equal to the sum of the aggregate additional Federal, state or local income taxes payable by the Beneficiary from time to time as a result of such Capital Expenditures or such Deposits plus the amount of any interest, penalties or additions to tax payable as a result of any such Capital Expenditures or such Deposits. If as a result of any such Capital Expenditures or such Deposits the aggregate Federal, state or local income taxes paid by the

Beneficiary for any taxable year shall be less than the amount of such taxes which would have been payable by the Beneficiary had no such Capital Expenditures or such Deposits been made, then the Beneficiary shall pay the Lessee the amount of such savings in taxes plus any additional tax benefits realized by the Beneficiary as the result of such payment; provided, however, that the Beneficiary shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee pursuant to this subsection (b) in respect of any Capital Expenditures or Deposits less (y) the amount of all prior payments by the Beneficiary pursuant to this sentence. The amount payable to the Beneficiary pursuant to this subsection (b) shall be paid within 30 days after receipt of the written demand therefor from the Beneficiary (but not prior to five business days prior to payment of the additional Federal, state or local income tax which becomes due as a result of said inclusion), accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Lessee pursuant to subsection (c) of this § 16 shall be paid within 30 days after the Beneficiary realizes any such savings in its income taxes or additional tax benefits, as the case may be.

(c) Contests. (1) If the Internal Revenue Service or a state or local taxing authority shall propose an adjustment in the Federal, state or local income taxes of the Beneficiary for which the Lessee would be required to indemnify such Beneficiary pursuant to subsection (a) of this § 16, and in the opinion of Messrs. Davis Polk & Wardwell:

> (a) such proposed adjustment would be contrary to the conclusions reached in the tax opinion delivered to the Beneficiary upon the execution of this Lease; and
>
> (b) there is a reasonable ground to oppose such proposed adjustment;

then the Beneficiary shall contest such proposed adjustment to the extent timely requested by the Lessee in writing; provided, however, that if such opinion is negative with respect to (a) or (b), or both, and if the Lessee so requests, then the Beneficiary shall engage at the Lessee's expense other independent tax counsel (acceptable to the Lessee) whose opinion as to (a) and (b) above shall be requested and whose opinion thereon shall be binding on the Beneficiary and the Lessee; provided, further, however, that the Beneficiary shall determine in its sole discretion the nature of

all action to be taken to contest such proposed adjustment including (i) whether any action to contest such proposed adjustment shall initially be by way of judicial or administrative proceedings, or both, (ii) whether any such proposed adjustment shall be contested by resisting payment thereof or by paying the same and seeking a refund thereof, and (iii) if the Beneficiary shall undertake judicial action with respect to such proposed adjustment, the court or other judicial body before which such action shall be commenced.

(2) If the Internal Revenue Service or a state or local taxing authority shall propose an adjustment in the Federal, state or local income taxes of the Lessee for which the Lessee would be required to indemnify the Beneficiary pursuant to subsection (a) of this § 16 but which is not subject to the provisions of paragraph (1) above or pursuant to subsection (b) of this § 16, then upon receipt of a timely request from the Lessee to do so the Beneficiary shall in its sole discretion decide whether and in what manner to contest the validity of such proposed adjustment; provided, however, that the Lessee shall not be relieved of its obligation to indemnify the Beneficiary by virtue of the Beneficiary's failure to take any action to contest the validity of a proposed adjustment which is described in this paragraph.

(3) The Beneficiary shall not be required to take any action pursuant to this subsection (c) unless and until the Lessee shall have agreed to indemnify the Beneficiary in a manner reasonably satisfactory to the Beneficiary for any liability or loss which the Beneficiary may incur as a result of contesting the validity of any proposed adjustment and shall have agreed to pay the Beneficiary on demand all costs and expenses which the Beneficiary may incur in connection with contesting such proposed adjustment (including fees and disbursements of counsel). If any contest involves paying the tax and suing for a refund, the Lessee must also advance funds for payment of the tax on an interest-free basis.

(d) Definition of Beneficiary. For purposes of this § 16, the term "Beneficiary" shall include any member of an affiliated group, within the meaning of section 1504 of the Code, of which the Beneficiary is a member if consolidated returns are filed for such affiliated group for Federal income tax purposes.

(e) Survival of Indemnities. The liability of the Lessee to make indemnification payments pursuant to this § 16 shall, notwithstanding any expiration or termination of this Lease, continue to exist until such indemnity payments are

made by the Lessee. All indemnity payments under this § 16 shall be made directly to the party entitled to indemnification.

(f) Enforcement. This § 16 may be enforced by the Lessor as provided in Paragraph 19 of the Participation Agreement.

§ 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, to the extent legally enforceable, an amount equal to 10.5% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable. Interest hereunder shall be determined on the basis of a 360-day year of twelve 30-day months.

§ 18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at 130 John Street, 4th Floor, New York, New York 10038, Attention of Corporate Trust and Agency Division; and

(b) if to the Lessee, at 1310 Six Penn Center Plaza, Philadelphia, Pennsylvania 19104, Attention of Assistant Treasurer-Cash Mobilization;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at Mellon Square, Pittsburgh, Pennsylvania 15230, Attention of Corporate Trust Division, and to the Beneficiary at 37 Wall Street, New York, New York 10005, Attention of Lease Administration.

§ 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.

Except for the Participation Agreement and the Maintenance Agreement, this Lease exclusively and completely

states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, including without limitation the Interim Lease of Railroad Equipment dated as of the date hereof between the Lessor and the Lessee. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

The Lessor and the Lessee acknowledge that the Guaranty Agreements contain certain provisions regarding the consent of the Guarantors in the event of any variation or modification of this Lease or any waiver of any of its provisions or conditions which would either individually or cumulatively have a material adverse effect upon the Guarantors.

§ 20. Immunities; Satisfaction of Undertakings. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by United States Trust Company of New York or for the purpose or with the intention of binding the said bank personally but are made and intended for the purpose of binding only the Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank (except liability under the proviso contained in the last paragraph of Article 12 of the Security Documentation) or the Beneficiary (except as provided in the Trust Agreement) or on account of any representation, undertaking or agreement of the Lessor or the Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee; provided, however, that the Lessee or any person claiming by, through or under it, making claim hereunder, may look to said Estate for satisfaction of the same.

§ 21. Governmental Guarantees. In the event the United States of America or any political subdivision thereof or any agency or instrumentality of any of the foregoing

shall use or permit to be used its credit directly, or indirectly, to pay, guarantee or otherwise support the Lessee's obligation to pay the purchase price of or rent for, or to so support any other financing arrangements for the acquisition of, any rolling stock used by the Lessee (other than any such support obtained prior to the first use by the Lessee of and in order to induce any person to provide any such rolling stock) the Lessee shall cause to be provided for the benefit of the Lessor, the Vendor and their successors and assigns a guaranty of or other comparable commitment with respect to the Lessee's obligations under this Lease from the same entity whose credit supports such other financing arrangements, such guaranty or commitment to be provided at the same time as such other rolling stock financing arrangement becomes entitled to such protection, so that the Lessor shall at all times have the benefit of the most favorable form of governmental support for financing of rolling stock used by the Lessee as is available to any other person with respect to rolling stock used by the Lessee subject to the limitations set forth above.

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

§ 23. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and 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 Lease or any assignment hereof shall be filed, recorded or deposited.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the

date first above written.

CONSOLIDATED RAIL CORPORATION,

by

_____
Vice President & Treasurer

[Corporate Seal]

Attest:

_____
Assistant Secretary

UNITED STATES TRUST COMPANY OF NEW YORK, as Trustee,

by

_____
Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this day of July 1977, before me personally appeared Richard T. Fox, to me personally known, who, being by me duly sworn, says that he is Vice President and Treasurer of CONSOLIDATED RAIL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Notary Public

[Notarial Seal]

My Commission expires

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this day of July 1977, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

SCHEDULE A TO LEASE

Type	Builder	Quantity	Lessee's Identification Numbers (Both Inclusive)
2,250 h.p. Model U23-B diesel-electric locomotive	General Electric Company	10	CR 2789-2798
3,000 h.p. Model C30-7 diesel-electric locomotive	General Electric Company	10	CR 6600-6609
2,250 h.p. Model B23-7 diesel-electric locomotive	General Electric Company	17	CR 2800-2816
3,000 h.p. Model GP40-2 diesel-electric locomotive	General Motors Corporation (Electro-Motive Division)	33	CR 3280-3312
3,000 h.p. Model SD40-2 diesel-electric locomotive	General Motors Corporation (Electro-Motive Division)	32	CR 6409-6440
2,000 h.p. Model GP38-2 diesel-electric locomotive	General Motors Corporation (Electro-Motive Division)	10	CR 8163-8172

SCHEDULE B TO LEASE

Casualty Value

Item I:

Semiannual Dates Following the Basic Rent Commencement Date	Percentage of Purchase Price
Prior to First	83.52
First	84.59
Second	84.91
Third	84.45
Fourth	84.34
Fifth	84.05
Sixth	83.48
Seventh	83.55
Eighth	82.08
Ninth	80.24
Tenth	78.14
Eleventh	75.94
Twelfth	73.64
Thirteenth	71.24
Fourteenth	68.73
Fifteenth	66.11
Sixteenth	63.38
Seventeenth	60.59
Eighteenth	57.72
Nineteenth	54.79
Twentieth	51.83
Twenty-first	48.84
Twenty-second	45.76
Twenty-third	42.61
Twenty-fourth	39.38
Twenty-fifth	36.08
Twenty-sixth	32.78
Twenty-seventh	31.38
Twenty-eighth	26.29
Twenty-ninth	23.13
Thirtieth	20.00

Item II:

Anniversary of Delivery and Acceptance	Percentage of Purchase Price
Third	26.51
Fifth	17.67
Seventh	8.83

SCHEDULE C-1 TO LEASE

Certificate of Acceptance Under Conditional Sale Agreement and Lease of Railroad Equipment (A) Both Dated as of April 15, 1977

To: United States Trust Company of
New York, acting as Trustee
(hereinafter called the Trustee)
under Trust Agreement (A)
130 John Street
New York, New York 10038

I, the duly appointed and authorized representative for the Trustee and Consolidated Rail Corporation (hereinafter called the Lessee) under the Conditional Sale Agreement and Lease of Railroad Equipment, both dated as of April 15, 1977, respectively, do hereby certify that I inspected and accepted delivery under the Conditional Sale Agreement and Lease of Railroad Equipment of the following Units of Equipment:

TYPE OF EQUIPMENT: Diesel electric locomotive

MODEL:

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED: CR

I do further certify that the foregoing Units of Equipment are in good order and condition, and appear to conform to the specifications, requirements and standards applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all applicable interchange requirements of the Association of American Railroads.

I do further certify that each of the foregoing Units of Equipment has been marked by means of a stencil printed in contrasting colors upon each side of each Unit of

Equipment in letters not less that one inch in height as follows:

"Ownership Subject to a Conditional Sale Agreement filed under the Interstate Commerce Act, Section 20c."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Builder named below for any warranties it has made with respect to the Equipment.

_____

Inspector and Authorized Representative of United States Trust Company of New York and Consolidated Rail Corporation

BUILDER:

General Electric Company
2901 East Lake Road
Erie, Pennsylvania 16531

SCHEDULE C-2 TO LEASE

Certificate of Acceptance Under Conditional Sale Agreement and Lease of Railroad Equipment (A) Both Dated as of April 15, 1977

To: United States Trust Company of
New York, acting as Trustee
(hereinafter called the Trustee)
under Trust Agreement (A)
130 John Street
New York, New York 10038

I, the duly appointed and authorized representative for the Trustee and Consolidated Rail Corporation (hereinafter called the Lessee) under the Conditional Sale Agreement and Lease of Railroad Equipment, both dated as of April 15, 1977, respectively, do hereby certify that I inspected and accepted delivery under the Conditional Sale Agreement and Lease of Railroad Equipment of the following Units of Equipment:

TYPE OF EQUIPMENT: Diesel electric locomotive

MODEL:

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED: CR

I do further certify that the foregoing Units of Equipment are in good order and condition, and appear to conform to the specifications, requirements and standards applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all applicable interchange requirements of the Association of American Railroads.

I do further certify that each of the foregoing Units of Equipment has been marked by means of a stencil printed in contrasting colors upon each side of each Unit of

Equipment in letters not less that one inch in height as follows:

> "Ownership Subject to a Conditional Sale Agreement filed under the Interstate Commerce Act, Section 20c."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Builder named below for any warranties it has made with respect to the Equipment.

_____

Inspector and Authorized Representative of United States Trust Company of New York and Consolidated Rail Corporation

BUILDER:

General Motors Corporation
(Electro-Motive Division)
La Grange, Illinois 60525

ANNEX D

THIS ASSIGNMENT OF LEASE, REASSIGNMENT AND AGREEMENT AMENDS AND RESTATES IN ITS ENTIRETY AN INTERIM ASSIGNMENT OF LEASE AND AGREEMENT DATED AS OF APRIL 15, 1977, BETWEEN UNITED STATES TRUST COMPANY OF NEW YORK, AS TRUSTEE UNDER TRUST AGREEMENT (A), AND J. P. MORGAN INTERFUNDING CORP.

ASSIGNMENT OF LEASE, REASSIGNMENT AND AGREEMENT dated as of April 15, 1977 (hereinafter called this Assignment), among J. P. MORGAN INTERFUNDING CORP. (hereinafter, in its capacity as assignee under the Interim Lease Assignment (as hereinafter defined), called the Interim Assignee), UNITED STATES TRUST COMPANY OF NEW YORK, acting as Trustee (hereinafter called the Lessor or the Vendee) under a Trust Agreement (A) dated as of the date hereof (hereinafter called the Trust Agreement) with J. P. Morgan Interfunding Corp. as beneficiary (hereinafter, in its capacity as such beneficiary, called the Beneficiary), and MELLON BANK, N.A., as Agent (hereinafter called the Vendor) under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement).

WHEREAS the Vendee is entering into two Conditional Sale Agreements dated as of the date hereof (hereinafter called the Security Documentation) with General Electric Company and General Motors Corporation (Electro-Motive Division) (hereinafter called the Builders), providing for the sale to the Vendee of such units of railroad equipment (hereinafter called the Units) described in each Annex B thereto as are delivered to and accepted by the Vendee thereunder;

WHEREAS the Lessor and Consolidated Rail Corporation (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), which amends and restates an Interim Lease of Railroad Equipment dated as of the date hereof between the Lessor and the Lessee (hereinafter called the Interim Lease), and which provides for the leasing by the Lessor to the Lessee of the Units;

WHEREAS, in order to provide security for certain interim obligations of the Lessor, the Lessor assigned its rights in, to and under the Interim Lease to the Interim Assignee by an Interim Assignment of Lease and Agreement dated as of the date hereof (hereinafter called the Interim Lease Assignment), and the Lessee acknowledged and consented to such assignment under an Interim Consent and Agreement (hereinafter called the Interim Consent);

WHEREAS, in order to provide security for the obligations of the Lessor under the Security Documentation and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as that term is defined in the Security Documentation), the Lessor agrees to assign for security purposes its rights in, to and under the Lease and the Interim Lease to the Vendor and the Interim Assignee agrees to assign to the Vendor the rights it received pursuant to the Interim Assignment in, to and under the Lease and the Interim Lease; and

WHEREAS the Builders are willing to guarantee certain obligations of the Lessee under the Lease and of the Vendee under the Security Documentation pursuant to two Guaranty Agreements (hereinafter called the Guaranty Agreements) dated as of the date hereof;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, and intending to be legally bound, the parties hereto agree as follows:

1. This Assignment supersedes, amends and restates in its entirety the Interim Lease Assignment.

2. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as Vendee under the Security Documentation, all the Lessor's rights, titles and interests, powers, privileges, and other benefits in, to and under the Interim Lease and the Lease, and the Interim Assignee hereby assigns, transfers and sets over unto the Vendor all the Interim Assignee's rights, titles and interests, powers, privileges, and other benefits (i) in, to and under the Interim Assignment and the Interim Consent, and (ii) in, to and under the Interim Lease and the Lease, including in each case, without limitation, the immediate right to receive and collect all rentals,

profits and other sums payable to or receivable by the Lessor from the Lessee, or by the Interim Assignee from the Lessor or the Lessee, under or pursuant to the provisions of the Interim Lease, the Interim Consent or the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease; provided, however, that the Lessor does not assign its right to receive the amounts payable by the Lessee as indemnification pursuant to § 16 of the Lease or § 6 of the Lease, except to the extent such indemnification under such § 6 is required to be paid to the Builder or the Vendor pursuant to Article 6 of the Security Documentation, and such amounts shall be excluded from the meaning of the term "Payments". The Vendor does hereby accept such assignment without any recourse against the Interim Assignee in its capacity as assignee under the Interim Lease Assignment for or on account of the failure of the Lessor or the Lessee to make any payments provided for in, or otherwise to comply with any of the provisions of, the Interim Lease, the Interim Consent or the Lease. In furtherance of the foregoing assignment, each of the Lessor and the Interim Assignee hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or the Interim Assignee, as the case may be, or as attorney for the Lessor or the Interim Assignee, as the case may be, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Interim Lease or the Lease, or to which the Interim Assignee is or may become entitled, as Interim Assignee, under the Interim Lease, the Lease, the Interim Lease Assignment or the Interim Consent, and to enforce compliance by the Lessee or the Lessor, as the case may be, with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments first, to satisfy the obligations of the Lessor under the Security Documentation, and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default thereunder shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor, by check mailed to the Lessor on such

date or, upon written request of the Lessor, by bank wire to the Lessor at such address as may be specified to the Vendor in writing, and such balance shall be retained by the Lessor. If the Vendor shall not receive any rental payment under the first paragraph of § 3 of the Lease when due, the Vendor shall notify the Lessor at the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the Security Documentation.

3. The assignment made by the Lessor hereunder is executed only as security and, therefore, the execution and delivery of this Assignment by the Lessor shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify, the liability of the Lessor under the Lease, it being understood and agreed that, notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor. The Lessor shall appear in and defend every action in connection with its obligations or duties under the Lease at its sole cost.

4. The Interim Assignee represents and warrants to the Vendor that the Interim Assignee has not entered into any other assignment of its interests acquired pursuant to the Interim Lease Assignment or the Interim Consent, has not entered into any amendment or modification of the Interim Lease (other than the Lease), the Interim Lease Assignment or the Interim Consent and has not created or incurred or suffered to exist on the Interim Lease, the Interim Lease Assignment, the Interim Consent or on any of its interests acquired pursuant to the Interim Lease Assignment or the Interim Consent any claim, lien or charge arising by, through, or under the Interim Assignee, and that, to its knowledge, no default exists under the Interim Lease or the Interim Consent. The Interim Assignee by the acceptance of payment to it from the Vendor on the Take-Out Date (as defined in the Participation Agreement) shall be deemed to reaffirm as of such date the representations and warranties herein set forth.

The Lessor represents and warrants to the Vendor that the Lessor has not entered into any assignment of its interests in the Interim Lease other than the Interim Lease Assignment, has not entered into any amendment or modification of the Interim Lease other than the Lease or of the

Interim Lease Assignment or the Interim Consent and has not created or incurred or suffered to exist on the Interim Lease or on any of its interests therein any claim, lien or charge arising by, through or under the Lessor, and that, to its knowledge, no default exists under the Interim Lease.

Each of the Interim Assignee and the Lessor agrees that it will from time to time and at all times, at the request of the Vendor or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions herein set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Vendor or intended so to be.

5. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee thereunder, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

6. Each of the Lessor and the Interim Assignee does hereby constitute the Vendor its true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or the Interim Assignee, respectively, or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor or the Interim Assignee is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

7. Upon the full discharge and satisfaction of all

sums due from the Lessor under the Security Documentation, the Lessor's assignment hereunder of its rights in, to and under the Lease shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor. However, the Vendor, if so requested by the Lessor at that time will (a) execute an instrument releasing its entire estate, right, title and interest in the Lease and transferring such estate, right, title and interest to the Lessor and (b) execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor in order to confirm or further assure the interest in the Lease which shall have reverted or been so transferred to the Lessor.

8. Each of the Lessor and the Interim Assignee will pay and discharge any and all claims, liens, charges or security interests (other than those created by the Security Documentation) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor or the Interim Assignee, respectively, or their successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the Security Documentation or the Lease (but including tax liens arising out of the receipt of the income and proceeds from the Units) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments equal or superior to the Vendor's interest therein, unless the Lessor shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect such interests of the Vendor.

9. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Vendor in order to confirm or further assure the interest of the Vendor hereunder.

The Lessor will not assign its interests in and to the Lease or the Units without the prior written consent of the Vendor, which consent shall not be unreasonably withheld; provided, however, that the Lessor may so assign its interests without such consent to (i) any bank or trust company incorporated under the National Bank Act or the laws of any state of the United States which, at the time of such assignment, has a total of capital and surplus at least equal to $100,000,000 or (ii) any member of a group

filing consolidated Federal tax returns that includes the Lessor, if, in each such case, such assignee assumes, in form and substance satisfactory to the Vendor, all obligations of the Lessor under the Security Documentation and this Assignment and, in the case of an assignee described in clause (ii), the Lessor or the parent of the Lessor guarantees, in form and substance satisfactory to the Vendor, all obligations of the Lessor under the Security Documentation and this Assignment.

10. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

11. This Assignment shall be governed by the laws of the State of New York, but 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, as shall be conferred by the laws of the several jurisdictions in which this Assignment shall be filed, recorded or deposited.

12. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the Security Documentation, or at such other address as the Vendor shall designate in writing.

13. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the Security Documentation has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment and which are for the sole benefit of the Lessor, without the prior consent of the Lessor.

14. It is expressly understood and agreed by and between the parties hereto, anything in this Assignment to the contrary notwithstanding, that each and all of the representations, undertakings and agreements in this Assign-

ment made on the part of the Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by United States Trust Company of New York or for the purpose or with the intention of binding the said bank personally but are made and intended for the purpose of binding only the Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank (except liability under the proviso contained in the last paragraph of Article 12 of the Security Documentation) or the Beneficiary (except as provided in the Trust Agreement) or on account of any representation, undertaking or agreement of the Vendee or the Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Estate for the satisfaction of the same.

15. The Interim Assignee hereby consents to the restatement of the Interim Lease substantially in the form of the Lease.

16. The parties hereto acknowledge that the Guaranty Agreements contain certain provisions regarding the consent of the Guarantors in the event of any variation or modification of this Assignment or any waiver of any of its provisions or conditions which would either individually or cumulatively have a material adverse effect upon the Guarantors.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

J. P. MORGAN INTERFUNDING CORP.,

by

_____
Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

UNITED STATES TRUST COMPANY
OF NEW YORK, as Trustee,

by

_____
Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

MELLON BANK, N.A., as Agent,

by

_____
Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

STATE OF NEW YORK,
) ss.:
COUNTY OF NEW YORK,)

On this day of July 1977, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a of J. P. MORGAN INTERFUNDING CORP., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

STATE OF NEW YORK,
) ss.:
COUNTY OF NEW YORK,)

On this day of July 1977, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a of UNITED STATES TRUST COMPANY OF NEW YORK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF ALLEGHENY,)

On this day of July 1977, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a of MELLON BANK, N.A., that one of the seals affixed to the foregoing instrument is the corporate seal of said national bank, and that said instrument was signed and sealed on behalf of said national bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national bank.

Notary Public

[Notarial Seal]

My Commission expires

CONSENT AND AGREEMENT

The undersigned, CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (hereinafter called the Lessee), the lessee named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease, Reassignment and Agreement (hereinafter called the Lease Assignment), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) this Consent and Agreement amends and restates in its entirety the Interim Consent and Agreement by the Lessee in which the Lessee consented to the Interim Lease Assignment referred to in the Lease Assignment;

(2) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease other than amounts not assigned by the Lessor as provided in Paragraph 2 of the Lease Assignment (which moneys, other than such unassigned amounts, are hereinafter called the Payments) due and to become due under the Lease or otherwise in respect of the Units leased thereunder, directly to Mellon Bank, N.A., as Agent (hereinafter called the Vendor), the assignee named in the Lease Assignment, at Mellon Square, Pittsburgh, Pennsylvania 15230, Attention of Corporate Trust Division (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(3) it shall not be entitled to any abatement of rent, reduction thereof or setoff against or recoupment of rent, including, but not limited to, abatements, reductions, setoffs or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of the Lessee against the Lessor under the Lease or under the Security Documentation referred to in the Lease Assignment, or against the Builders (as defined in the Lease Assignment) or the Vendor or otherwise;

(4) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

(5) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(6) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

The parties hereto acknowledge that the Guaranty Agreements referred to in the Lease Assignment contain certain provisions regarding the consent of the Guarantors in the event of any variation or modification of this Consent and Agreement or any waiver of any of its provisions or conditions which would either individually or cumulatively have a material adverse effect upon the Guarantors.

This Consent and Agreement, when accepted by the Vendor by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of New York and, for all purposes, shall be construed in accordance with the laws of said State.

CONSOLIDATED RAIL CORPORATION,
as Lessee,

by

_____
Vice President
and Treasurer

[Corporate Seal]

Attest:

_____
Assistant Secretary

The foregoing Consent and Agreement is hereby accepted, as of the 15th day of April 1977.

MELLON BANK, N.A.,
as Agent,

by

_____
Vice President