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SEP 9 1977 10 22 AM

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INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION SEP 9 10 23 AM '77

RECORDATION NO. 8985-B Filed & Recorded

SEP 9 1977 10 22 AM

I. C. C. FEE OPERATION BR.

7-252A034

September 9, 1977 INTERSTATE COMMERCE COMMISSION

SEP 9 1977

Robert L. Oswald, Secretary
Interstate Commerce Commission
12th & Constitution Ave., N.W.
Washington, D.C. 20423

RECORDATION NO. 8985A Filed & Fee \$ 100

SEP 9 1977 10 22 AM ICC Washington, D. C.

Dear Mr. Oswald:

INTERSTATE COMMERCE COMMISSION

Pursuant to Section 20c of the Interstate Commerce Act and as provided by Volume 49 Code of Federal Regulations Sections 1116.1 through 1116.4, we present the following documents, all dated as of June 1, 1977, for recordation:

- (A) Conditional Sale Agreement between Thrall Car Manufacturing Company, Pullman Incorporated (Pullman Standard Division), Whittaker Corporation (Berwick Forge Fabricating Division), and First Security Bank of Utah, N.A., as Trustee;
- (B) Agreement and Assignment between Thrall Car Manufacturing Company, Pullman Incorporated (Pullman Standard Division), Whittaker Corporation (Berwick Forge Fabricating Division), and Mellon Bank, N.A., as Agent;
- (C) Lease of Railroad Equipment between Consolidated Rail Corporation and First Security Bank of Utah, N.A., as Trustee;
- (D) Assignment of Lease and Agreement between First Security Bank of Utah, N.A., as Trustee, and Mellon Bank, N.A., as Agent.

Conrad
J. J. Hayes

The names and addresses of the parties to the documents are:

(i) With respect to the Conditional Sale Agreement described under (A):

Vendors	Thrall Car Manufacturing Company 26th & State Streets Chicago Heights, Illinois 60411
	Pullman Incorporated (Pullman Standard Division) 200 South Michigan Avenue Chicago, Illinois 60604
	Whittaker Corporation (Berwick Forge & Fabricating Division) West Eighth Street Berwick, Pennsylvania 18601
Purchaser	First Security Bank of Utah, N.A., as Trustee 79 South Main Street Salt Lake City, Utah 84111

(ii) With respect to the Agreement and Assignment described under (B):

Assignors	Thrall Car Manufacturing Company 26th & State Streets Chicago Heights, Illinois 60411
	Pullman Incorporated (Pullman Standard Division) 200 South Michigan Avenue Chicago, Illinois 60604
	Whittaker Corporation (Berwick Forge & Fabricating Division) West Eighth Street Berwick, Pennsylvania 18601
Assignee	Mellon Bank, N.A., as Agent Mellon Square Pittsburgh, Pennsylvania 15230

(iii) With respect to the Lease of Railroad Equipment described under (C):

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

Lessee Consolidated Rail Corporation
 1310 Six Penn Center Plaza
 Philadelphia, PA. 19104

(iv) With respect to the Assignment of Lease and Agreement described under(D):

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

Assignee Mellon Bank, N.A., as Agent
 Mellon Square
 Pittsburgh, Pennsylvania 15230

The equipment covered by the documents is:

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>No. of Units</u>	<u>Marked*</u>	<u>Numbers (Inclusive)</u>
Coil Steel Flatcars	GBS	300	Conrail	628001-628300
Covered Hopper Cars	LO	400	Conrail	883600-883999
Sixty Foot Boxcars	XP	122	Conrail	223001-223122

*Each unit will have marked thereon the following legend:

"Owner by a bank or trust company under a security agreement filed under the Interstate Commerce Act Section 20c and leased under a lease deposited in accordance with Section 86 of The Railway Act of Canada."

These documents have not been previously recorded with the Interstate Commerce Commission.

Our check in the amount of \$100.00 is enclosed to cover the recordation fees.

After retaining a counterpart original of the documents please return the remaining copies, stamped with your recordation number, to Consolidated Rail Corporation, Room 1138, Six Penn Center Plaza, Philadelphia, Pennsylvania, 19104, in the custody of the individual presenting them for recordation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J.T. Rowan", with a long horizontal flourish extending to the right.

Joseph T. Rowan
Assistant Corporate Counsel

JTR:smg

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

9/9/77

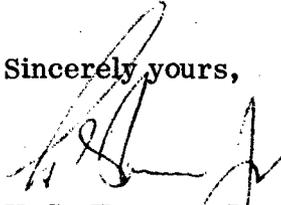
OFFICE OF THE SECRETARY

Joseph T. Rowan
Assistance Corp. Counsel
Consolidated Rail Corp. Rm. 1138
Six Penn Center Plaza
Phila. Pa. 19104

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 **9/9/77** at **10:30am**, and assigned recordation number(s)

Sincerely yours,


H.G. Homme, Jr.
Acting Secretary

8985
8985-A
8985-B
8985-C

Enclosure(s)

RECORDATION NO. 8985 FILED & RECORDED

SEP. 9 1977-10 20 AM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of June 1, 1977

between

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION,
not in its individual capacity, but solely
as Trustee under a Trust Agreement dated as of
the date hereof with Steiner Sea, Air & Rail Co.,
C I Transportation Leasing Corporation and
The Fifth Third Leasing Company

and each of

THRALL CAR MANUFACTURING COMPANY;

PULLMAN INCORPORATED (PULLMAN STANDARD DIVISION); and

WHITTAKER CORPORATION (BERWICK FORGE &
FABRICATING DIVISION)

CONDITIONAL SALE AGREEMENT dated as of June 1, 1977, between each of Thrall Car Manufacturing Company, Pullman Incorporated (Pullman Standard Division), and Whittaker Corporation (Berwick Forge & Fabricating Division) (hereinafter called the Vendors or the Builders as more particularly set forth in Article 1 hereof), and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, acting not in its individual capacity, but solely as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with Steiner Sea, Air & Rail Co., C I Transportation Leasing Corporation and The Fifth Third Leasing Company, as beneficial owners (said bank, when acting in such capacity, being hereinafter called the Vendee and said owners being hereinafter together called the Beneficiaries).

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

WHEREAS, the Vendee is entering into a lease 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); and

WHEREAS, Mellon Bank, N.A. (hereinafter sometimes called the Assignee or the Vendor when acting in such capacity, as more particularly set forth in Article 1 hereof) is acting as agent for certain investors pursuant to the Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement), among the Assignee, the Vendee, the Lessee, the Beneficiaries and the parties named in Schedule A thereto;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, 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 Builders by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof between the Builders and the Assignee, as agent (such Agreement and Assignment being hereinafter called the Assignment).

The term "Vendors," whenever used in this Agreement, means, before any assignment of their respective rights hereunder, each party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, the term shall be deemed to be in the singular and shall mean both any assignee or assignees for the time being of such particular 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 "Builders," whenever used in this Agreement, means, both before and after any such assignment, each party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

The rights and obligations of the Builders under this Agreement are several in accordance with their interests and not joint. Accordingly, whenever the Agreement, by use of such designation as "Vendor," "Builder" or other similar term, confers a right or imposes an obligation upon Thrall Car Manufacturing Company, Pullman Incorporated (Pullman Standard Division) and Whittaker Corporation (Berwick Forge & Fabricating Division), or the successor of any of such corporations, such right or obligation shall be construed to be enforceable against only the specific corporation furnishing the units of Equipment giving rise to such right or obligation and its successor as herein provided.

In case of such assignment, the Vendee will assign to the Vendor, 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 and Agreement in the form of Annex D hereto (hereinafter called the Lease Assignment) and the Lessee shall consent thereto pursuant to a Consent and Agreement in the form attached to Annex D (hereinafter called the Consent).

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, each Builder shall construct the Equipment at its plant set forth in Annex B hereto, and will sell and deliver to the Vendee, and the Vendee will purchase from the Builders and accept delivery of and pay for (as hereinafter provided), 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 with each Builder (with respect to the Equipment manufactured by it), 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 for new equipment and to all standards 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.

ARTICLE 3. Inspection and Delivery. The Builders 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 shall not be made until the filing or recordings referred to in Article 18 hereof have been made; and provided, further, that the Builders shall have no obligation to deliver any unit of Equipment hereunder (i) 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, or (ii) unless the Builders shall have been notified by the Assignee that the conditions contained in Paragraph 7 of the Participation Agreement have been met and the Builders shall have been notified by the Vendee that the conditions contained in Paragraph 8 of the Participation Agreement have been met or waived. Each Builder agrees not to deliver hereunder any unit of Equipment following receipt of written notice from the Vendee or

the Assignee (a) of the commencement of any such proceedings or the occurrence of any such event, as aforesaid, or (b) that any of the conditions contained in Paragraph 7 or 8 of the Participation Agreement have not been met or waived.

Any Equipment not delivered at the time of receipt by the Builders of the notice specified in the last sentence of the first paragraph of this Article 3, and any Equipment not delivered and accepted hereunder on or prior to December 31, 1977, by reason of failure of condition as provided 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 obligations to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the 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 Builders as provided in Paragraph 1 of the Participation Agreement.

The Builders' obligation as to the time of delivery set forth in Annex B is subject, however, to delays resulting from causes beyond the Builders' 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. Any such delay shall not, however, operate to extend the Cut-Off Date (as hereinafter defined).

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 each Builder shall grant to such authorized inspectors reasonable access to its plant. Each Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of such Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be pre-

sented 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 of such unit or units a certificate of acceptance and delivery (hereinafter called the Certificate of Acceptance) 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 Builders shall not thereby be relieved of their respective warranties referred to in Article 13 hereof.

Upon tender of delivery, inspection and acceptance of each such unit at the place specified for delivery pursuant to this Article 3, the Builder of such unit 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 such Builder shall not thereby be relieved of its warranties 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 Lessee.

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 Builders, the Vendee and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the Builders' 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 accom-

panied 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 (as hereinafter defined in this Article) the aggregate Purchase Price of Equipment for which settlement has theretofore and is then being made under this Agreement would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 4 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 Builders (and any assignee of the Builders) 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 4 of Annex A hereto (or such higher amount as aforesaid) and the Vendee shall take such other 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 Equipment shall be settled for in five groups delivered to and accepted by the Vendee as is provided in Item 2 of Annex A hereto. The term "Group," as used herein, shall mean the group of units of Equipment being settled for on any Closing Date, which units had not theretofore been settled for, and which units had been delivered and accepted prior to seven business days before the Closing Date. The term "Closing Date" with respect to any such Group shall mean such date (not earlier than August 22, 1977, and not later than December 31, 1977, such later date being herein called the Cut-Off Date), occurring not more than ten business days following presentation by any Builder to the Vendee of the Invoices and of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by such Builder to the Lessee, as shall be fixed by the Lessee by written notice delivered to the Vendee and the Assignee 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 Salt Lake City, Utah, or Pittsburgh, Pennsylvania, are authorized or obligated to remain closed.

The Vendee hereby acknowledges itself to be indebted to the Vendors in the amount of, and hereby promises to pay in cash to the Vendors at such place as the Vendors 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 29.2 percent of the aggregate Purchase Price of such Group, plus (ii) the amount, if any, by which (x) 70.8 percent of the Purchase Price of the Equipment covered by this Agreement, as set forth in the Invoice or Invoices therefor (said invoiced prices being herein called the Invoiced Purchase Prices), exceeds (y) the Maximum Conditional Sale Indebtedness specified in Item 5 of Annex A 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 installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, 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 (herein called the Conditional Sale Indebtedness) shall be payable on each January 5 and July 5, commencing July 5, 1978, to and including January 5, 1993 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.5 percent per annum. Such interest shall be payable, to the extent accrued, on January 5, 1978, and on each Payment Date thereafter. The installments 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 installments of principal will completely amortize the remaining Conditional Sale Indebtedness. The Vendee will furnish to the Vendors and the Lessee promptly after the Closing Date a schedule, in such number of counterparts as shall be requested by the Vendors, 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 12 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 10.5 percent per annum.

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. All such payments shall be made by the Vendee to the Vendor in immediately available funds. 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), it is understood and agreed by the Builders and their successors or assigns that the liability of the Vendee, the Beneficiaries, or any assignee of the Vendee for all payments to be made by them under and pursuant to this Agreement, including any liability arising out of or in connection with the performance of their obligations hereunder and excluding only the payments to be made pursuant to subparagraph (a) of the third paragraph of this Article, the obligations set forth in the proviso in the third paragraph of Article 12 hereof, and the payments to be made pursuant to Article 23 hereof, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment," and such payments shall be made by the Vendee only to the extent that the Vendee (which term includes the Vendors as assignee of the Lease or any other assignee of the Vendee) shall have

actually received sufficient "income or proceeds from the Equipment" to make such payments. Except as provided in the next preceding sentence, the Vendors agree that the Vendee shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Vendee as above provided. In addition, the Vendors agree and understand that the Vendee (i) makes no representation, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease insofar 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 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 Vendors will look solely to the Vendors' rights under this Agreement against the Equipment and to the Vendors' 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 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 Section 10 or any other provision of the Lease, 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 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 (x) any amounts referred to in the foregoing clauses (a) and (b)

received by the Vendee 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 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, or (y) payments by the Lessee to the Vendee or the Beneficiaries pursuant to Sections 6 and 9 of the Lease (except to the extent that the Vendee is obligated to indemnify the Vendors under Articles 6 and 13 hereof), or (z) payments required to be made by the Lessee to the Vendee or the Beneficiaries pursuant to the Participation Agreement. Notwithstanding anything to the contrary contained in Article 15 or 16 hereof, the Vendors agree that in the event they 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, they will limit their 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 Vendors 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. Security Interest in the Equipment. The Vendors shall and hereby do retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, 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 additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto 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 Vendors 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 Vendors. However, the Vendors, if so requested by the Vendee at that time, will (a) execute a bill or bills of sale for the Equipment or other appropriate documents releasing their security 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 Vendors 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 Vendors for collection or other charges and will be free of expense to the Vendors 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 general corporation, franchise or like taxes measured by Vendors' capital, capital stock or net worth) 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 such 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 for the use or operation thereof (except as provided above) or upon the earnings arising therefrom (except as provided above) or upon the Vendors solely by reason of the ownership thereof or security interest therein 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 security interest of the Vendors 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 Vendors, adversely affect the security interest or property or rights of the Vendors in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendors directly and paid by the Vendors, the Vendee shall reimburse the Vendors upon presentation of an invoice therefor, and any amounts so paid by the Vendors shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendors for any impositions so paid unless the Vendors shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendors) 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, and in accordance with the standards prescribed by the Association of American Railroads.

In the event that any unit of the Equipment shall be or become worn out beyond economic repair, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation for use or otherwise resulting in loss of possession by the Vendee

or the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government for a stated period not in excess of the then remaining term of the Lease (such occurrences being herein called Casualty Occurrences), the Vendee shall promptly cause the Vendors to be fully informed in regard thereto. On the next succeeding date for the payment of interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendors a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendors a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendors 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, ratably in accordance with the unpaid balance of each installment, the Conditional Sale Indebtedness and the Vendee will promptly furnish to the Vendors 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 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 Vendors of the Casualty Value of any unit of the 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 Vendors, except that the Vendors, 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 Vendors' right, title and interest, and the release of the Vendors' 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 of such unit remaining

unpaid on the date as of which such Casualty Value shall be determined (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 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 of 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.

The Vendee will at all times prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, cause to be carried and maintained insurance in respect of the Equipment at the time subject hereto, and public liability insurance, in amounts and against risks comparable in amounts and against risks insured against by the Lessee on equipment owned by it; provided, however, that the Vendee may permit the Lessee to self-insure any Equipment to the extent that the Lessee self-insures similar equipment owned by it.

ARTICLE 8. Reports and Inspections. On or before March 31 in each year, commencing with the year 1978, the Vendee shall cause to be furnished to the Vendors 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 since the date of this Agreement in the case of the first such statement) 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 Vendors 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 Vendors shall have the right, at their sole cost and expense, by their agents, to inspect the Equipment and the Lessee's records with respect thereto at such reasonable times as the Vendors may request during the term of this Agreement.

ARTICLE 9. Marking of the Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Annex B hereto, or in the case of Equipment not there listed such identifying 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 "Owned by a bank or trust company under a security agreement filed under the Interstate Commerce Act Section 20c and leased under a lease deposited in accordance with Section 86 of the Railway Act of Canada," or other appropriate words designated by the Vendors, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendors' security interest in the Equipment and their 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 have been made thereon and will replace promptly any such markings which may be removed, defaced or destroyed. The Vendee will not permit the numbers of any unit of the Equipment to be changed except in accordance with a statement of new numbers to be substituted therefor, which statement previously shall have been filed with the Vendors 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, 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 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 Vendors, adversely affect the property or rights of the Vendors 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 Builders 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 Vendors under this Agreement. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendors. So long as an event of default specified in Article 15 hereof shall not have occurred and be continuing, the Vendee shall be entitled to the possession and use of the Equipment, and the Equipment may be used upon the lines of railroad owned or operated by the Lessee or any affiliate of the Lessee (or any other railroad company approved by the Vendors), or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights, or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and the Equipment may be used upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Agreement; provided, however, that the

Vendee shall not assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America or Canada. The Vendee may also lease the Equipment to any other railroad company, but only with the prior written consent of the Vendors, which consent may be subject to the conditions, among others, that (i) such lease shall provide that the rights of such lessee are made expressly subordinate to the rights and remedies of the Vendors under this Agreement, (ii) such lessee shall expressly agree not to assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America or Canada, and (iii) such lease shall be assigned to the Vendors as security on terms consistent with those set forth in Annex D hereto, and in any event satisfactory to the Vendors.

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 (other than an encumbrance created by the Vendors or resulting from claims against the Vendors not related to the ownership of the Equipment) upon or with respect to the Equipment, or any unit thereof, or the Vendee's interests in the Lease and the payments to be made thereunder equal or superior to the Vendors' security interest 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 Vendors, adversely affect the security interest of the Vendors in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendors 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, mechanic's, 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 Vendors' 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 Vendors, adversely affect the security interest of the Vendors 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 and Warranties. The Vendee assumes the risk of and agrees to indemnify, protect and hold harmless the Vendors (including the Builders) from and against all losses, damages, injuries, liabilities, claims (including without limitation claims for absolute or 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, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention by the Vendors of a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, 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 while a security interest therein remains in the Vendors or during the period of the transfer of such security interest in the Equipment by the Vendors pursuant to any of the provisions of this Agreement, except however, in the case of the Builders, any losses, damages, injuries, liabilities,

claims and demands whatsoever arising out of any tort by the Builders, or out of any breach of warranty or failure to perform any covenant hereunder by any of the Builders. 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 under this Agreement (except as provided in Articles 7 and 21 hereof) in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

Each Builder, with respect to each unit manufactured by it, represents and warrants to the Vendee that, at the time of delivery and acceptance of each such unit of the Equipment under this Agreement, the Vendee will receive good and merchantable 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 Vendors under this Agreement and the rights of the Lessee under the Lease.

Except in cases of articles or materials specified by the Lessee and not manufactured by the Builders and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by the Builders, each Builder, with respect to each unit manufactured by it, agrees to indemnify, protect and hold harmless the Vendee and, as third party beneficiary hereof, the Lessee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendee, the Lessee, its or their assigns or the users of such Equipment because of the use in or about the construction or operation of any of such Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. Each Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Lessee every claim, right and cause of

action which such Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Lessee and purchased or otherwise acquired by such Builder for use in or about the construction or operation of any of such Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. Each Builder further agrees to execute and deliver to the Lessee or the Vendee or the users of such Equipment all and every such further assurance as may be reasonably requested by the Lessee or the Vendee to more fully effectuate the assignment and delivery of every such claim, right and cause of action. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

Each of the Builders represents that it is not entering into this Agreement, or entering into any assignment of this Agreement, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it 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 warranty of material and workmanship of each Builder is set forth in Item 3 of Annex A hereto.

ARTICLE 14. Assignments. The Vendee will not (a) except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment, or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement without the prior written consent of the Vendors and the Lessee, except as provided in Article VII of the Trust Agreement.

All or any of the rights, benefits and advantages of the Vendors under this Agreement, including the right to receive the payments herein provided to be made by the Vendee, may be assigned by the Vendors and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the

Builders from, any of the obligations of the Builders to construct and deliver the Equipment in accordance herewith or to respond to their respective warranties and indemnities referred to in Article 13 hereof, to relieve the Vendee of its respective obligations to the Builders 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 and the Lessee, 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 in such manner as it may direct.

The Vendee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. 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 part of the rights of the Vendors 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 any of the Builders with respect to the manufacture, construction, delivery or warranty of the Equipment (which obligations shall be construed to include, without limitation, the indemnification provisions of the fourth paragraph of Article 13 hereof and in Annex A hereto) 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 any of the Builders. 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 Builders.

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 15 days after the date such payment became due and payable; or

(b) 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 shall, for more than 30 days after the Vendors shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, the Participation Agreement, the Assignment, the Lease, or the Lease Assignment, all dated as of the date hereof, on its part to be kept and performed or to make provision satisfactory to the Vendors for such compliance; or

(c) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the 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 and the Consent shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree (whether or not subject to ratification), by a trustee or trustees appointed in such proceedings in such manner that such

obligations shall have the same status and priority as obligations incurred by such trustee or trustees entitled to the first priority for expenses or administration; or

(d) any other proceeding shall be commenced by or against the Vendee, any Beneficiary or the Lessee for any relief which includes, or might result in, any modification of the obligations of the Vendee hereunder or such Beneficiary under the Trust Agreement or of the Lessee under the Lease and the Consent 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), 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); 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 Vendors, fail to secure a reassignment or retransfer to the Vendee of such Agreement, interest or right; or

(f) an Event of Default shall have occurred under the Lease;

then at any time after the occurrence of such an event of default the Vendors 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 Vendors, (i) cause the Lease immediately upon such notice to terminate (and the Vendee acknowledges the right of the Vendors to terminate the Lease), but without affecting the indemnities which by the provisions of the Lease survive its termination, and/or (ii) declare (hereinafter 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 rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, subject to Article 4 hereof, the Vendors shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, subject to the provisions of Articles 4 and 21 hereof, wherever situated. The Vendee shall promptly notify the Vendors of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time would constitute, an event of default under this Agreement.

The Vendors may, at their 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. At any time during the continuance of a Declaration of Default, the Vendors may, and upon such further notice, if any, as may be required by compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendors, take or cause to be taken, by their 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 premise where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee, subject to all mandatory requirements or due process of law.

In case the Vendors shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Lessee for the delivery of the Equipment to the Vendors, the Vendee shall, at its own expense and risk, 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 part of the Equipment has been interchanged to return the Equipment so interchanged), cause the Equipment (a) to be moved to such point or points on the lines of the Lessee as shall be designated by the Vendors and shall there deliver the Equipment or cause it to be delivered to the Vendors, or (b) to be moved to such interchange point or points of the Lessee as shall be designated by the Vendors upon any sale, lease or other disposal of all or any part of the Equipment by the Vendors. At the option of the Vendors, the Vendors may keep the Equipment on any of the lines of the Lessee at the risk of the Vendee without cost or expense for storage until the earlier of the date that the Vendors shall have leased, sold or otherwise disposed of the same or the 270th day from the date the Lessee shall have placed all the units of Equipment on such lines. 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 Vendors, the Vendors' representatives and prospective purchasers, lessees and users. In furtherance of the foregoing, the Lessee has agreed in the Lease to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendors reasonably convenient to the Lessee and, at the Lessee's risk, to permit inspection of the Equipment by the Vendors, the Vendors' representatives and prospective purchasers 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 Vendors shall be entitled to a decree against the Lessee requiring specific performance hereof.

At any time during the continuance of a Declaration of Default, the Vendors (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, at their 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 Vendors shall deem fit. Written notice of the Vendors' election to retain the Equipment shall be given to the Vendee 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 Vendors shall 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 Vendors 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 Vendors 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 or any other persons notified under the terms of this paragraph object in writing to the Vendors within 30 days from the receipt of notice of the Vendors' election to retain the Equipment, then the Vendors 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 Vendors 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.

At any time during the continuance of a Declaration of Default, the Vendors, with or without retaking possession thereof, at their 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 advertisement as the Vendors 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 Vendors in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendors' reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendors, 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 Vendors 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 Vendors under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendors 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 Vendors may determine, so long as such sale shall be in a commercially reasonable manner. The Vendors, the Vendee and the Lessee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale or the making of a contract for such sale not less than 10 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 less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Vendee to purchase or provide a purchaser, within 15 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 Vendors shall be the

purchaser of the Equipment, they 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 Vendors shall be entitled to have credited on account thereof all or any part of sums due to the Vendors hereunder. From and after the date of any such sale, the Vendee shall pay to the Vendors an amount equal to the interest rate on the unpaid Conditional Sale Indebtedness with respect to such unit which shall not have been assembled, as hereinabove provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

Notwithstanding anything to the contrary contained in this Agreement, an Event of Default under the Lease resulting from the nonpayment by the Lessee of payments of rent due thereunder shall not be or result in an event of default hereunder if the Vendee shall have made, within twenty (20) days of the rental payment date corresponding to the date on which the missed rent payment was due, the payment due hereunder (notwithstanding the limitations of the last paragraph of Article 4 and Article 21 hereof); provided, however, that the Vendee shall have no obligation to make any payments under the foregoing clause with respect to a subsequent Event of Default by virtue of its having previously made any payments thereunder; and, provided, further, that during the term of this Agreement and to and including January 25, 1985, the Vendee shall have the right, but not the obligation, to make up to four successive payments under the foregoing clause (unless from time to time after any missed rent payment the Lessee shall make any rent payment in which event the Vendee shall again have the right, but not the obligation, to make up to four successive payments under the foregoing clause), and provided, further, that during the term of this Agreement and subsequent to January 25, 1985, the Vendee shall have the right, but not the obligation, to make up to three successive payments under the foregoing clause (unless from time to time after any missed rent payment the Lessee shall make any rent payment in which event the Vendee shall again have the right, but not the obligation, to make up to three successive payments under the foregoing clause).

Each and every power and remedy hereby specifically given to the Vendors shall be in addition to every other power and remedy hereby specifically given or now or here-

after 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 Vendors. 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 Vendors 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 duly granted to the Vendee or the Lessee shall not otherwise alter or affect the Vendors' rights or the Vendee's obligations hereunder. The Vendors' 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 Vendors' rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendors under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall, subject to the provisions of the last paragraph of Article 4 hereof, pay the amount of such deficiency to the Vendors upon demand, together with interest thereon from the date of such demand to the date of payment at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, and, if the Vendee shall fail to pay such deficiency, the Vendors 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 Vendors, there shall remain a surplus in the possession of the Vendors, such surplus shall be paid to the Vendee.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendors in enforcing their remedies under the terms of this Agreement. In the event that the Vendors shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendors 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 or of any jurisdiction (which is not overridden by applicable federal law) 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 Vendors' rights under this Agreement and any and all rights of redemption.

ARTICLE 18. Recording. Prior to the delivery and acceptance of any unit of the Equipment, the Vendee will cause this Agreement, any assignments hereof by the Vendee, and any supplements hereto, and prior to the settlement for such unit, the Vendee will cause any assignment hereof by the Builders and any supplement thereto, in each case (i) to be filed, registered, recorded or deposited and refiled, re-registered, rerecorded or redeposited, with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and (ii) to be deposited in the office of the Registrar General of Canada (and will cause the required notice of such deposit forthwith thereafter to be published in The Canada Gazette) in accordance with Section 86 of the Railway Act of Canada.

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 Vendors for the purposes of proper protection in the United

States and Canada, to the satisfaction of the Vendors, of their interests in the Equipment and their rights under this Agreement or for the purpose of carrying out the intention of this Agreement. The Vendee will promptly furnish to the Vendors certificates or other evidence satisfactory to the Vendors of such filing, registering, depositing and recording.

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, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendors 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 Vendors and the Vendee.

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 79 South Main Street, Salt Lake City, Utah 84111, attention of Trust Department, Corporate Trust Division, with a copy to each of the Beneficiaries at the addresses below,

(b) to the Lessee, at 1310 Six Penn Center Plaza, Philadelphia, Pennsylvania 19104, attention of Mr. Baxter D. Wellmon, Assistant Treasurer - Cash Mobilization,

(c) to the Builders, at their respective addresses specified in Item 1 of Annex A hereto,

(d) to any Beneficiary, as follows: if to Steiner Sea, Air & Rail Co., 100 Pine Street, San Francisco, California 94111; if to C I Transportation Leasing Corporation, 231 South LaSalle Street,

Chicago, Illinois 60693; if to The Fifth Third
Leasing Company, 38 Fountain Square Plaza,
Cincinnati, Ohio 45202,

(e) to any assignee of the Vendors, or of
the Vendee, at such address as may have been fur-
nished in writing to the Vendee, or the Vendors,
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 Agree-
ment. Any such notice shall be deemed to be effective
three days after its deposit.

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 any
incorporator, stockholder, director or officer, as such,
past, present or future, of the parties hereto or any Bene-
ficiary, 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 para-
graph and the last sentence of the fifth paragraph of
Article 16, and under Articles 3, 6 (other than tax liens
which, pursuant to the proviso contained in the last para-
graph of Article 12 hereof, are required to be discharged
by the Vendee), 7 (other than the second and third sen-
tences 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.
No waiver or amendment of the Lessee's undertakings under
the Lease shall be effective unless joined in by the
Vendors.

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 Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by First Security Bank of Utah, National Association, 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 Trust 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 on account of any representation, undertaking or agreement of said bank acting in its capacity as Vendee, either express or implied, all such personal liability, if any, being expressly waived and released by the Vendors and by all persons claiming by, through or under the Vendors; provided, however, that the Vendors or any person claiming by, through or under the Vendors, making claim hereunder, may look to said Trust Estate for satisfaction of the same. Nothing herein contained shall limit, restrict or impair the rights of the Vendors to take all actions to enforce the rights and remedies provided for herein and to bring suit and obtain a judgment against the Vendee (provided that neither the Vendee in its fiduciary or individual capacity nor any Beneficiary shall have any personal liability on any such judgment and the satisfaction thereof shall be limited to the Trust Estate, including any interest therein of the Vendee or any Beneficiary) or, subject to the terms and conditions of the Lease, to foreclose the lien and security interest created by this Agreement or otherwise realize upon the Trust Estate, including the right to proceed against the Lessee under the Lease.

ARTICLE 22. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act, the applicable recording laws of Canada, and such additional rights arising out of the filing, recording, registering or depositing hereof and of any assignment

hereof and out of the marking on the Equipment as shall be conferred by the laws of the several jurisdictions in which the Equipment may be located and in which this Agreement or any assignment hereof shall be filed, recorded, registered or deposited. The Vendee warrants that its chief place of business is in the State of Utah.

ARTICLE 23. Payment of Expenses. The Vendee will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builders) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related hereto or thereto, including all fees and expenses of counsel for the first assignee of the Agreement and for any party acquiring interests in such first assignment.

ARTICLE 24. Execution. This Agreement may be executed in any number of counterparts, such counterparts together constituting but one and the same contract, but the counterpart marked Original Counterpart delivered to the Assignee pursuant to the Assignment 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.

'THRALL' CAR MANUFACTURING COMPANY

By:


Vice President

[CORPORATE SEAL]

Attest:


Assistant Secretary

PULLMAN INCORPORATED (PULLMAN
STANDARD DIVISION)

By: *A. J. Olsen*
Vice President - Freight
Unit

[CORPORATE SEAL]

Attest:

William O. Dege



WHITTAKER CORPORATION (BERWICK
FORGE & FABRICATING DIVISION)

By: *Howard E. McKinn*
And: *James J. Melite*

[SEAL]

Attest:

Ludwig B. Eichner

By: *[Signature]*
Authorized Officer

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION, not in
its individual capacity, but
solely as Trustee as aforesaid

STATE OF ILLINOIS)

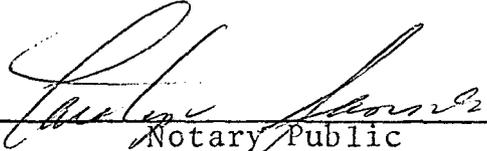
COUNTY OF COOK)

SS:

On this 1st day of September, 1977, before
me personally appeared S. D. Christiansen, to me
personally known, who, being by me duly sworn, says that he
is the Vice President of THRALL CAR MANUFACTURING COMPANY,



that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

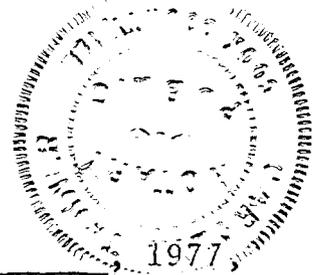


Notary Public

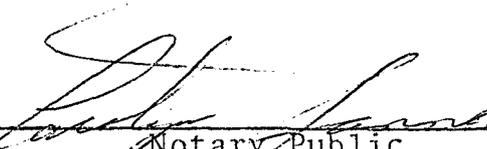
My Commission expires

My Commission Expires Jan. 3, 1980

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)



On this 1st day of September, 1977, before me personally appeared H. J. OLSEN, to me personally known, who, being by me duly sworn, says that he is the Vice President - Freight Unit of PULLMAN INCORPORATED (PULLMAN STANDARD DIVISION), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

My Commission expires

My Commission Expires Jan. 3, 1980

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF COLUMBIA)

On this 6th day of September, 1977, before me personally appeared Howard E. McKinnon and James J. Malabra to me personally known, who, being by me duly sworn, says

SCHEDULE I

Allocation Schedule of Each
 \$1,000,000 of Conditional
 Sale Indebtedness Payable
 in Installments from July 5, 1978
 Through January 5, 1993

<u>Payment Number</u>	<u>Date</u>	<u>Principal Balance (Before Payment)</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Total Payment</u>
1	7-5-78	1,000,000.00	47,500.00	22,176.91	69,676.91
2	1-5-79	977,823.09	46,446.60	23,230.31	69,676.91
3	7-5-79	954,592.78	45,343.16	24,333.75	69,676.91
4	1-5-80	930,259.03	44,187.31	25,489.60	69,676.91
5	7-5-80	904,769.43	42,976.55	26,700.36	69,676.91
6	1-5-81	878,069.07	41,708.28	27,968.63	69,676.91
7	7-5-81	850,100.44	40,379.77	29,297.14	69,676.91
8	1-5-82	820,803.30	38,988.16	30,688.75	69,676.91
9	7/5/82	790,114.55	37,530.45	32,146.46	69,676.91
10	1-5-83	757,968.09	36,003.49	33,673.42	69,676.91
11	7-5-83	724,294.67	34,404.00	35,272.91	69,676.91
12	1-5-84	689,021.76	32,728.54	36,948.37	69,676.91
13	7-5-84	652,073.39	30,973.49	38,703.42	69,676.91
14	1-5-85	613,369.97	29,135.08	40,541.83	69,676.91
15	7-5-85	572,828.14	27,209.34	42,467.57	69,676.91

<u>Payment Number</u>	<u>Date</u>	<u>Principal Balance (Before Payment)</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Total Payment</u>
16	1-5-86	530,360.57	25,192.05	44,484.86	69,676.91
17	7-5-86	485,875.71	23,079.10	25,224.55	48,303.65
18	1-5-87	460,651.16	21,880.93	26,422.72	48,303.65
19	7-5-87	434,228.44	20,625.85	27,677.80	48,303.65
20	1-5-88	406,550.64	19,311.16	28,992.49	48,303.65
21	7-5-88	377,558.15	17,934.01	30,369.64	48,303.65
22	1-5-89	347,188.51	16,491.45	31,812.20	48,303.65
23	7-5-89	315,376.31	14,980.37	33,323.28	48,303.65
24	1-5-90	282,053.03	13,397.52	34,906.13	48,303.65
25	7-5-90	247,146.90	11,739.48	36,564.17	48,303.65
26	1-5-91	210,582.73	10,002.68	38,300.97	48,303.65
27	7-5-91	172,281.76	8,183.38	40,120.27	48,303.65
28	1-5-92	132,161.49	6,277.67	42,025.98	48,303.65
29	7-5-92	90,135.51	4,281.44	44,022.21	48,303.65
30	1-5-93	46,113.30	2,190.35	46,113.30	48,303.65

ANNEX A
to
Conditional Sale Agreement

Item 1: Thrall Car Manufacturing Company
P. O. Box 218
Chicago Heights, Illinois 60411
Incorporated in Delaware

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

Whittaker Corporation (Berwick Forge &
Fabricating Division)
P. O. Box 188
West 9th Street
Berwick, Pennsylvania 18603
Incorporated in California

Item 2: Unless the Lessee and the Builders otherwise
agree, the Groups shall be as follows:

Group 1	100 Coil Steel Flatcars
Group 2	100 Coil Steel Flatcars
Group 3	100 Coil Steel Flatcars
Group 4	400 Covered Hopper Cars
Group 5	122 60' Box Cars

Item 3: Each Builder warrants that its Equipment will be
built in accordance with the Specifications and
the standards and requirements set forth in
Article 2 of the Conditional Sale Agreement to
which this Annex A is attached (hereinafter
called the Agreement) and warrants the Equipment
will be free from defects in material (except as
to materials incorporated therein specified by
the Vendee and not manufactured by such Builder)
and workmanship under normal use and service,

such Builder's obligation under this Item 3 being limited to making good at its plant any part or parts of any unit of the Equipment which shall, within one year after the delivery of such unit to the Vendee, be returned to such Builder with transportation charges prepaid and which such Builders' examination shall disclose to their satisfaction have been thus defective. Such Builder shall not be liable for any indirect or consequential damages of whatever nature.

THE FOREGOING WARRANTY OF EACH BUILDER IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE BUILDER, EXCEPT FOR ITS OBLIGATIONS UNDER ARTICLES 2, 3, 4 AND 13 OF THE AGREEMENT, AND THE BUILDER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF ITS EQUIPMENT, EXCEPT AS AFORESAID.

The Builders further agree with the Vendee that neither the inspection as provided in Article 3 of Agreement, nor any examination, nor the acceptance of any units of its 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.

- Item 4: The Maximum Purchase Price referred to in Article 4 of the Agreement is \$27,993,746.
- Item 5: The Maximum Conditional Sale Indebtedness referred to in Article 4 of the Agreement as attached is \$19,819,572.

ANNEX B
to
Conditional Sale Agreement

<u>Type</u>	<u>Lessee's Specifications</u>	<u>Builders' Plant</u>	<u>Quantity</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Lessee's Road Numbers (Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
Coil Steel Flatcars	FM-C-100-53-141	Chicago Hts., Ill.	300	\$35,551	\$10,665,300	CR628001- CR628300	9/1/77-10/31/77 Hammond, Indiana
Covered Hopper Cars	1744-B	Butler, Pennsylvania	400	\$25,240	\$10,096,000	CR883600- CR883999	8/29/77-10/3/77 Butler, Pennsylvania
Box Cars	1758-A	Berwick, Pennsylvania	122	\$48,405	\$5,905,410	CR223001- CR223122	12/1/77-12/15/77 Berwick, Pennsylvania

ANNEX C
To Conditional Sale Agreement

LEASE OF RAILROAD EQUIPMENT

Dated as of June 1, 1977

between

CONSOLIDATED RAIL CORPORATION

and

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION --

Not in Its Individual Capacity but Solely

as Trustee under a Trust Agreement

dated as of the date hereof with

Steiner Sea, Air & Rail Co.,

C I Transportation Leasing Corporation

and The Fifth Third Leasing Company

LEASE OF RAILROAD EQUIPMENT dated as of June 1, 1977, between CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (hereinafter called the Lessee), and FIRST SECURITY BANK OF UTAH, National Association, a national banking association, acting not in its individual capacity but solely as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with Steiner Sea, Air & Rail Co., C I Transportation Leasing Corporation and The Fifth Third Leasing Company, as beneficial owners (said bank, when acting in such capacity, being hereinafter called the Lessor, and said owners being hereinafter together called the Beneficiaries).

WHEREAS, the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof with Thrall Car Manufacturing Company, Pullman Incorporated (Pullman Standard Division) and Whittaker Corporation (Berwick Forge & Fabricating Division) (hereinafter together called the Builders) (such agreement being hereinafter called the Security Documentation), wherein the Builders have agreed to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto (hereinafter called the Equipment);

WHEREAS, each Builder is assigning its interests in the Security Documentation pursuant to an Agreement and Assignment (hereinafter called the Assignment) to Mellon Bank, N.A., a national banking association, acting as agent (said bank when acting in such capacity being 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 Lessor, Lessee, the Beneficiaries, and the parties named in Schedule A thereto;

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 Lessor will assign this Lease for security to the Vendor pursuant to an Assignment of Lease and Agreement (hereinafter called the Lease Assignment) and the Lessee will consent to the Lease Assignment pursuant to a Lessee's 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:

Section 1. Net Lease. This Lease is a net lease and the Lessee acknowledges and agrees that the Lessee's obligation to pay all rent and other amounts payable hereunder and the rights of the Lessor in and to such rent and other amounts shall be absolute and unconditional, and Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Documentation, or against the Builders or the Vendors or any financial institution providing funds to the Lessor for the purpose of financing the Equipment or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or 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 the Lessor, 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.

Section 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 and delivery (hereinafter called the Certificate of Acceptance) 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 Section 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.

Section 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one interim rental payment on January 5, 1978, and thereafter 30 consecutive semiannual payments payable on July 5 and January 5 of each year commencing July 5, 1978. The interim rental payable on January 5, 1978, shall be in an amount equal to .026389 percent of the Purchase Price (as defined in the Security Documentation) of each Unit then subject to this Lease from the Closing Date (as defined in the Security Documentation) for that Unit for each day to

and including January 5, 1978. The 30 semiannual rental payments shall each be in an amount equal to 4.968486 percent of the Purchase Price of each Unit then subject to this Lease.

If any of the semiannual rental payment dates referred to above is not a business day the semiannual rental payment otherwise payable on such date shall be payable on the next succeeding 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 Salt Lake City, Utah, or Pittsburgh, Pennsylvania, are authorized or obligated to remain closed.

Unless the Lease Assignment is not executed and delivered, the Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, other than the payments provided for in Sections 6 and 9 hereof (except indemnification payments owing to the Vendor pursuant to Articles 6 and 13 of the Security Documentation), but including without limitation the payments provided for in this Section 3 and in Section 7 hereof, at the principal office of the Vendor until the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment (as defined in the Security Documentation), together with interest and all other payments required by the Security Documentation, for the account of the Lessor in care of the Vendor, with instructions to the Vendor (subject to the provisions of the Consent) 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. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in immediately available funds on the date such payment is due.

Section 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 Sections 7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof

is due pursuant to Section 3 or Section 13 hereof, as the case may be. The obligations of the Lessee hereunder (including, but not limited to, the obligations under Sections 6, 7, 9 and 14 hereof) shall survive the expiration of the term of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the 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.

Section 5. Marking of the Units. The Lessee will cause each Unit to be kept numbered with its identifying number as set forth in Schedule A hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease 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 "Owned by a bank or trust company under a security agreement filed under the Interstate Commerce Act, Section 20c and leased under a lease deposited in accordance with Section 86 of the Railway Act of Canada," or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's ownership and the Vendor's security 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 markings have been made thereon and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessee will not change the number of any Unit (i) except in accordance with a statement of a new number or numbers to be substituted therefor, which statement previously shall have been filed with the Lessor and the Vendor by the Lessee and 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) until the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to such effect and to the effect that

such filing and recordation will protect the interest of the Vendor and the Lessor in and to the Units and no filing, recording or deposit (or giving of notice) with any other federal, state and local government or agency thereof is necessary in order to protect the interest of the Vendor or the Lessor in and to the Units in the United States of America or any state thereof and Canada or any province thereof.

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 of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Units to be lettered with the names or initials or other insignia of the Lessee or its affiliates.

Section 6. Taxes. All payments to be made by the Lessee hereunder ~~will~~ be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor and the Beneficiaries with respect to the amount of any local, state, federal or foreign taxes (other than (i) any United States Federal Income Tax payable by the Beneficiaries in consequence of the receipt of payments provided for herein, and (ii) the aggregate of all state or local taxes measured by net income based on such receipts, up to the amount of any such taxes based on such receipts which would be payable to the state and locality in which any of the Beneficiaries have their principal places of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Documentation, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof (except as provided above) or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof

and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or the security interest of the Vendor or the interest of the Beneficiaries or result in a lien upon any such Unit; provided, however, that the Lessee 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 is permitted by law and does not, in the reasonable opinion of the Lessor, adversely affect the title, property, rights or interest of the Lessor or the Beneficiaries hereunder or the Vendor under the Security Documentation. The Lessee agrees to give the Lessor notice of such contest within 30 days after institution thereof and the Lessor agrees to provide such information as may be reasonably requested by the Lessee in furtherance of such contest. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor; provided, however, that the Lessor shall have given the Lessee written notice of such imposition within a reasonable time prior to such payment.

In the event that the Lessor shall become obligated to make any payment to the Builders or the Vendor or otherwise pursuant to any correlative provision of the Security Documentation or the Beneficiaries shall become obligated to make payment to the Lessor pursuant to any similar provision with respect to taxes in the Trust Agreement, not covered by the foregoing paragraph of this Section 6, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor or the Beneficiaries to fulfill completely its or their obligations pursuant to said provision.

In the event any returns, statements or reports with respect to impositions are required to be made, the Lessee will prepare, make and file such returns, statements and reports in such manner as to show the interest of the Lessor, the Beneficiaries and the Vendor in such Units.

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

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

Section 7. Maintenance; Casualty Occurrences; Insurance. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good operating order, repair and condition, and in accordance with the standards prescribed by the Association of American Railroads.

In the event that any Unit shall be or become worn out beyond economic repair, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation for use or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government for a stated period not in excess of the then remaining term of this Lease (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in Section 14 hereof, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such notice, the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule referred to below. Any Casualty Value not paid when due shall accrue interest as provided in Section 16 hereof. 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, 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. It is understood and agreed that the Lessee may be the purchaser of such Unit. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite the rental payment date succeeding the actual date of such Casualty Occurrence.

Whenever any Unit shall suffer a Casualty Occurrence after termination of this Lease and before such Unit shall have been returned in the manner provided in Section 14 hereof, the Lessee shall promptly 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 percent of the Purchase Price of such Unit. 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. It is understood and agreed that the Lessee may be the purchaser of such Unit. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the net 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 requisition for use by the United States Government (hereinafter called the Government) of any Unit during the term of this Lease or any renewal thereof not constituting a Casualty Occurrence all of the Lessee's obligations under this Lease with respect to such

Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to Sections 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 Sections 11 or 14, as the case may be, with respect to such Unit. 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, 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, 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 Section 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 property insurance and public liability insurance in respect of the Units at the time subject hereto, in amounts and against risks comparable in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it; provided, however, that the Lessee may self-insure any Unit to the extent that it self-insures similar equipment owned by it. Any policies of public liability insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancellation to the Lessor, the Beneficiaries and the Vendor and (ii) name the Lessor, the Beneficiaries and the Vendor as additional named insureds as their respective interests may appear and shall provide that in respect of the interests of the Lessor, the Beneficiaries and the Vendor in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor, the

Beneficiaries or the Vendor) and shall insure the Lessor, the Beneficiaries and the Vendor regardless of any breach of violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Lessor, the Beneficiaries or the Vendor). If the Lessor (or the Vendor) shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor (or the Vendor) shall, subject to the Lessee having made payment of the Casualty Value in respect of such Unit, 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 (or the Vendor) in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor and the Vendor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

Section 8. Reports. On or before March 31 in each year, commencing with the calendar year 1978, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) 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 Section 5 hereof and by the Security Documentation have been preserved or replaced. 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; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or death of, any person exercising the rights of inspection granted under this sentence.

Section 9. Disclaimer of Warranties; Compliance With Laws and Rules; Indemnification. THE LESSEE ACKNOWLEDGES AND AGREES (1) THAT EACH UNIT IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY THE LESSEE, (2) THAT THE LESSEE IS SATISFIED THAT THE SAME IS SUITABLE FOR ITS PURPOSES, (3) THAT THE LESSOR IS NOT A MANUFACTURER OR INSTALLER THEREOF, NOR A DEALER IN PROPERTY OF SUCH KIND, (4) THAT 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 (5) THAT 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 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 any of the Builders under the provisions of Item 3 of Annex A and the patent infringement and title indemnification provisions of Article 13 of 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 (including, without limitation, strict or absolute liability in tort or otherwise), loss or damage caused or alleged to be caused directly or indirectly by any Unit 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 Unit or any risks relating thereto; (iii) any interruption of services, loss of business or anticipated profits or consequential damages; (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Unit; or (v) any other damages whatsoever and howsoever caused. 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, and will cause every sublessee or user of the Units 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 or addition of or to any part of any Unit, the Lessee will conform therewith at its own expense and the Lessor will have title thereto; 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 reasonable opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Documentation. The Beneficiaries will include as additional rental income the fair market value of such non-severable improvements at the time such improvements are made. If Section 4(4) of Revenue Procedure 75-21 subsequently is amended to allow such non-severable improvements without the foregoing income tax treatment, the Beneficiaries and the Lessee may request a supplemental ruling from the National Office of the Internal Revenue Service, as to whether the improvements meet the requirements of Revenue Procedure 75-21 as amended. The Lessee, at its own cost and expense, may furnish other additions, modifications and improvements to the Units during the term of this Lease provided that such additions, modifications and improvements are readily removable without causing material damage to the Units. The additions, modifications and improvements made by the Lessee under the preceding sentence shall

be owned by the Lessee and shall be removed by it upon the return of the Units pursuant to Section 14 hereof.

The Lessee assumes the risk of and agrees to indemnify, protect and hold harmless the Lessor, the Beneficiaries and the Vendor from and against all losses, damages, injuries, liabilities, claims (including without limitation claims for absolute or strict liability in tort or otherwise) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of this Lease or the occurrence of a default, an event of default or an Event of Default under the Security Documentation, the Participation Agreement, this Lease, or any sublease entered into pursuant to Section 12 hereunder, the ownership of any Unit, the ordering, manufacture, acquisition, use, operation, maintenance, condition, purchase, delivery, 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 Section 14 of this Lease, or the transfer of title to or its security interest in the Equipment by the Vendor pursuant to any provision of the Security Documentation. 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 indemnities arising under this Section 9 shall not be deemed to operate as a guaranty of the principal of or interest on the Conditional Sale Indebtedness under the Security Documentation, or as a guaranty of residual value.

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 of the Units, the security interest of the Vendor in the Units, or the leasing thereof to the Lessee.

Section 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 Sections 3, 7 or 13 hereof, and such default shall continue for ten 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 or the insurance to be maintained by the Lessee under Section 7 hereof shall for any reason not remain in full force and effect as therein provided, unless comparable substitute insurance satisfactory to the Lessor and the Agent shall be in force or unless the Lessee self-insures as permitted in said Section 7;

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, in the Consent, or in the Participation Agreement, and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

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

priority as obligations incurred by such trustee or trustees entitled to the first priority for expenses or administration;

E. Any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or under the Consent, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or under the Consent), 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);

F. Any representation or warranty of the Lessee contained in the Participation Agreement shall be materially incorrect at the time the same was made, and the Lessor shall have given the Lessee seven days' written notice of the incorrectness of such representation or warranty; or

G. An event of default set forth in Article 15 of the Security Documentation shall have occurred arising out of any default by the Lessee in performing any of its obligations hereunder;

then, the Lessor, at its option, may:

(a) With respect to an Event of Default under subsection 10 C. hereinabove caused by the Lessee's breach of its representation under subparagraph 3(n) of the Participation Agreement, the Lessor shall recover from the Lessee any moneys paid under the Conditional Sale Agreement with respect to any unit or units of Equipment for which the documents required pursuant to subparagraph 3(n) have not been furnished (unless

the requirement to furnish such documents has been previously waived by the Lessor) as of the occurrence of the Event of Default and concurrently shall assign to the Lessee all of its rights, titles, interests and obligations under the Conditional Sale Agreement with respect to said unit or units; provided, however, that the Lessee agrees that the purchase price under the Conditional Sale Agreement for said unit or units shall be the greater of the Purchase Price (as defined in the Conditional Sale Agreement) and the Fair Market Value (as defined in the Lease); the Builder has agreed in the Assignment to the modification of the Purchase Price and the assignment contemplated by this subsection (a);

and, in any other case, the Lessor, at its option, may:

(b) 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 the Participation Agreement or to recover damages for the breach thereof including net after-tax losses of federal, state and local income tax benefits to which the Lessor would otherwise be entitled under this Lease or the Participation Agreement; or

(c) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any 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, (A) whichever of the following sums the Lessor, in its sole discretion, shall specify: (x) with respect to each Unit 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 values to be computed in each case on the basis of a 6 percent per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, 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 net proceeds of the sale of the Equipment if sold, or, if not sold at such time, the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; plus (B) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease.

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, for an amount equal to any amounts payable pursuant to the last sentence of the fifth paragraph of Article 16 of the Security Documentation 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, except with respect to subsection (a) hereinabove, 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 or other 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.

Except as otherwise provided in this Lease and the Security Documentation, the Lessee, 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 Lease and the Security Documentation and any and all rights of redemption.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

Section 11. Return of Units Upon Default. If this Lease shall terminate pursuant to Section 10 hereof, the Lessee shall forthwith deliver possession of the Units to

the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, normal wear and tear excepted. 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 place such Units upon such storage tracks of the Lessee as the Lessor reasonably may designate;

B. Permit the Lessor to store such Units on such tracks at the risk of the Lessee until the earlier of the date all such Units have been sold, leased or otherwise disposed of by the Lessor or the 270th day from the date the Lessee shall have placed all the Units on such storage tracks; and

C. Transport the same to any place on the lines of railroad operated by it or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

During any storage period, the Lessee will, at its own cost and expense, maintain, insure and keep the Equipment in good order and repair. This agreement to assemble, deliver, store and transport the Units and furnish facilities as hereinbefore provided shall be at the expense and risk of the Lessee and is the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance hereof. The Lessee hereby expressly waives any and all claims against the Lessor and its agent or agents for damages of whatever nature in connection with any retaking of any Units in any reasonable manner. In the event any Unit is not assembled, delivered, stored and transported, as hereinabove provided, within 60 days after termination of the Lease, the Lessee shall pay to the Lessor for each day thereafter an amount equal to the amount of the per diem interchange rate for such Unit.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 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 whomsoever shall be in possession of such Unit at the time.

Section 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 assigns (including the Vendor), and if this Lease is assigned to the Vendor the fact that the Vendor is specifically named herein in certain provisions shall not be construed as limiting the rights assigned to the Vendor pursuant to such assignment.

So long as the Lessee shall not be in default under this Lease and no Event of Default shall exist under the Security Documentation, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. 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 or security interest (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto or the interest of the Lessor, the Vendor or the Lessee 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 Lessor and of the Vendor, adversely affect the title of the Lessor or the security interest of the Vendor in or to the Units or otherwise under this Lease or the Security Documentation. In the event that the Lessee fails to promptly pay or discharge any lien, charge or security interest to the extent required

by this paragraph, the Lessor or the Vendor may, but shall have no obligation to, pay or discharge the same and any amounts paid by the Lessor or the Vendor in discharge of such liens, charges or security interests upon the Units shall be secured by and under this Lease.

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 Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as the Lessee shall not be in default under this Lease and no Event of Default shall exist under the Security Documentation, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, but only upon and subject to all the terms and conditions of this Lease and the Security Documentation; provided, however, that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America other than Canada. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this Section 12 shall be deemed to restrict the right of the Lessee to assign or transfer its interest under this Lease in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Participation Agreement

and the Consent) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

If the Lessee fails to make any payment or fails to perform or comply with any of its agreements contained herein, the Lessor may itself make such payment or perform or comply with such agreement, and the amount of such payment and the amount of the reasonable expenses incurred by the Lessor in connection with such payment or the performance or compliance with such agreement, as the case may be, together with interest thereon at the rate of 10.5 percent per annum, shall be payable by the Lessee on demand.

Section 13. Renewal and Purchase. 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 (a) nine months prior to the end of the original term hereof, notify the Lessor that the Lessee irrevocably elects that it shall either extend the term of this Lease or offer to purchase the Units covered by this Lease, all on the basis hereinafter provided, (b) six months prior to the end of the first extended term of this Lease, notify the Lessor that the Lessee irrevocably elects that it shall either extend the term of this Lease or purchase the Units covered by this Lease, all on the basis hereinafter provided, and (c) six months prior to the end of the second extended term of this Lease, notify the Lessor that the Lessee irrevocably elects to purchase the Units covered by this Lease on the basis hereinafter provided.

Any extension of the term of this Lease pursuant to clauses (a) or (b) of the first paragraph of this Section shall be in respect of all of the Units then covered by this Lease and shall be for a two-year period commencing on the scheduled expiration of the original term or the first extended term of this Lease, at a "Fair Market Rental" payable in semiannual payments on each January 5 and July 5 of such extended term. Any offer to purchase pursuant to clause (a) of the first paragraph of this Section shall be

with respect to all of the Units covered by this Lease at the end of such original term. Any purchase pursuant to clauses (b) or (c) of the first paragraph of this Section shall be in respect of all of the Units covered by this Lease at the end of the first or second extended term of this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of such first or second extended term of this Lease, as the case may be.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would be obtained in an arm's-length transaction between an informed and willing Lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease, and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would be obtained in an arm's-length transaction between an informed buyer-user (other than (i) a lessee currently in possession, or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell, and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

If Lessee by written notice pursuant to clause (a) of the first paragraph of this Section notifies Lessor that it will either extend the term of this Lease or offer to purchase the Units, it shall within 30 days thereafter deliver to Lessor a notice stating whether it (i) intends to extend the term of this Lease or (ii) is thereby offering to purchase the Units. If it offers to purchase the Units, such notice shall include the amount which it is willing to pay for the Units and the terms upon which it is willing to make such purchase. Lessor agrees that if it receives a notice pursuant to clause (a) of the first paragraph of this Section, it will not sell the Units prior to the latter of (i) the receipt of a notice of intent to extend the term of this Lease or (ii) the receipt and rejection of Lessee's offer to purchase plus, if Lessor makes a counter offer, 30 days. Lessor further agrees that it will accept or reject Lessee's offer or make a counter offer for such purchase within 30 days of the receipt of Lessee's offer. If the sale is not consummated, through no fault of Lessor, within 30 days after Lessor accepts Lessee's offer or makes

a counter offer, then, Lessor may sell to any person on any terms subject only to the rights of Lessee under this Lease. It is expressly understood that notwithstanding Lessee's right to notify Lessor of its desire to purchase the Units, Lessor is not under any obligation to and does not currently have any intention of selling the Units at the end of the original term of this Lease. If Lessor rejects Lessee's offer to purchase or Lessee rejects Lessor's counter offer, Lessee shall have the right to elect to extend the term of this Lease if Lessee notifies Lessor of such election within ten days after the final rejection in relation to the offer to purchase. Such notice shall be treated as an irrevocable election to extend the term of this Lease pursuant to clause (a) of the first paragraph of this Section. For the purposes of this paragraph the expiration of any time period specified herein without acceptance, rejection or counter offer shall be deemed a rejection.

If after 30 days from the giving of notice (i) of intent by the Lessee to extend the term of this Lease pursuant to clauses (a) or (b) of the first paragraph of this Section, or (ii) to purchase the Units pursuant to clauses (b) or (c) of the first paragraph of this Section, the Lessor and the Lessee are unable to agree upon a Fair Market Rental or the Fair Market Value, as appropriate, such rental or value shall be determined in accordance with the foregoing definition by the following procedure: Either party to such determination may give written notice to the other requesting determination of such value by 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 the 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 apply, to make such appointment, to the American Arbitration Association, 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 and/or Fair Market Value, as the case may be, of the Units within 60 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 and/or Fair Market Value; 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 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 and/or Fair Market Value, 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 and/or Fair Market Value, as the case may be, and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedures shall be borne by the Lessee. The Lessee shall, if its notice so requires because such notice was delivered pursuant to clause (b) of the first paragraph of this Section, within 30 days after the determination of Fair Market Rental and Fair Market Value, give written notice to the Lessor as to whether it shall extend the term of this Lease or purchase the Units covered by this Lease, all on the basis as provided in this Section. If such election is not permitted as Lessee shall have no alternative but to extend the term of this Lease pursuant to clause (a) of the first paragraph of this Section or to purchase the Units pursuant to clause (c) of the first paragraph of this Section, then Lessor and Lessee shall take all appropriate action to effectuate such extension or sale.

Upon payment of the purchase price of any Unit, 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 recourse, representation or warranties of any kind) for such Unit 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.

Section 14. Return of Units Upon Expiration of Term.
As soon as practicable on or after the expiration of the original or extended term of this Lease (if the Lessee does

not purchase the Units) the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Units to the Lessor at such point or points on its lines 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 at such point or points on the Lessee's lines as it may select, or in facilities furnished by the Lessee, for a period not exceeding 60 days after the delivery of the last Unit to the Lessor or 120 days after the expiration of the original or extended term of this Lease, whichever is later, and transport the same, at any time from the end of the term of the Lease to the expiration of such period, to any reasonable place on the lines of railroads 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; 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 set forth in Schedule B hereto. The Lessor may continue to store any of the Units on the Lessee's lines or in the facilities furnished by the Lessee for a period of one year after the expiration of the period referred to above and shall pay the Lessee reasonable storage charges during such one-year period. 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 of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, lessee or user, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this Section 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, normal wear and tear excepted, and (ii) meet the standards then in effect under any applicable rules of any governmental agency or other organization with jurisdiction. The assembling, delivery, storage and transporting of the Units as hereinabove 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. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after termination of this Lease, the Lessee shall pay to the Lessor for each day thereafter an amount equal to the amount of the per diem interchange rate for such Unit.

Section 15. Recording. The Lessee, at its own expense, will cause this Lease, the Security Documentation and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and to be duly deposited in the office of the Registrar General of Canada; and the Lessee will cause the required notice of such deposit forthwith thereafter to be published in The Canada Gazette in accordance with Section 86 of the Railway Act of Canada. The Lessee 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 interests in the Units, or for the purpose of carrying out the intention of this Lease and the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor.

Section 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any non-payment of rentals and other obligations due hereunder, including without limitation Sections 3, 6, 7, 9 and 10 hereof, shall result in the obligation on the part of the Lessee promptly to pay on demand, to the extent legally enforceable, an amount equal to 10.5 percent 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.

Section 17. 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 79 South Main Street, Salt Lake City, Utah 84111, attention of Trust Department, Corporate Trust Division, with a copy to each of the Beneficiaries, as follows: Steiner Sea, Air & Rail Co., 100 Pine Street, San Francisco, California 94111; C I Transportation Leasing Corporation, 231 South LaSalle Street, Chicago, Illinois 60693; The Fifth Third Leasing Company, 38 Fountain Square Plaza, Cincinnati, Ohio 45202; and

(b) if to the Lessee, at 1310 Six Penn Center Plaza, Philadelphia, Pennsylvania 19104, attention of Mr. Baxter D. Wellmon, 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.

Section 18. 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 Consent, 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. 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.

Section 19. No Recourse. 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 of First Security Bank of Utah, National Association, acting in its capacity as Trustee, or

for the purpose or with the intention of binding said bank personally, but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under said Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank or on account of any representation, undertaking or agreement of said bank as Lessor, either express 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.

Section 20. Agreements for Benefit of Beneficiaries. All rights of the Lessor hereunder (including, but not limited to, its rights under Sections 6, 7, 9 and 10 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Beneficiaries and any of the Beneficiaries' assigns under the Trust Agreement.

Section 21. 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 pursuant to the Lease Assignment 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.

Section 22. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by Section 20(c) of the Interstate Commerce Act and Section 77 of the Bankruptcy Act (as presently in force, as amended or as the substance thereof may hereafter be re-enacted, including Section 77(j) thereof); and provided, further, that the parties shall be entitled to all rights conferred by the applicable recording laws of Canada, and such additional rights arising out of the filing, recording, registering or depositing hereof and of

any assignment hereof and out of the marking on the Equipment as shall be conferred by the laws of the several jurisdictions in which the Equipment may be located and in which this Agreement or any assignment hereof shall be filed, recorded, registered 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

[CORPORATE SEAL]

By: _____
Authorized Officer

Attest: .

Authorized Officer

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION, not in
its individual capacity, but
solely as Trustee as aforesaid

[CORPORATE SEAL]

By: _____
Authorized Officer

Attest:

Laura B. Fisher

Authorized Officer

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF PHILADELPHIA)

On this ____ day of _____, 1977, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is the _____ 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 UTAH)
) SS:
COUNTY OF SALT LAKE)

On this 2nd day of September, 1977, before me personally appeared Robert S. Clark, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the seal of said national bank, 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.

Susan A. Howard
Notary Public

[Notarial Seal]

My Commission expires

Commission expires June 6, 1981

SCHEDULE A TO LEASE

<u>Type</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Inclusive)</u>
60' Boxcars	122	CR 223001 - CR 223122
Coil Steel Flatcars	300	CR 628001 - CR 628300
Covered Hopper Cars	400	CR 883600 - CR 883999

SCHEDULE B TO LEASE

<u>Rental Payment Number</u>	<u>Casualty Value Percentage of Purchase Price</u>
Lease Commencement Date	107.080
1	107.495
2	107.910
3	107.037
4	107.865
5	107.449
6	100.103
7	99.205
8	98.071
9	96.726
10	88.487
11	86.734
12	84.787
13	82.674
14	73.714
15	71.293
16	68.733
17	65.988
18	63.057
19	60.036
20	56.922
21	53.720
22	50.427
23	47.047
24	43.579
25	40.026
26	36.387
27	32.665
28	28.860
29	24.969
30	20.000

SCHEDULE C TO LEASE

1. The depreciation method for each unit of Equipment shall be the double declining balance method switching to the sum of the years digits method and/or the straight line method all without the prior written consent of the Commissioner of Internal Revenue, using Class Life Asset Depreciation Range System pursuant to Section 167(m) of the Internal Revenue Code and Treasury Regulation Section 167(a)-11. Each Owner-Participant shall be allowed to take into account at least six months of depreciation for the period ending December 31, 1977.

2. The depreciable life of each unit of Equipment shall be twelve years.

3. The salvage value of each unit of Equipment after the reduction provided for in Section 167(f) shall be zero.

4. The Acquisition Cost of each unit of Equipment for each Owner-Participant shall be the sum of (i) such Owner-Participant's pro rata share of the total amount paid to the Builders pursuant to the Conditional Sale Agreement for such unit of Equipment ("the Purchase Price") and (ii) an amount equal to the product of (a) the fee to be paid by such Owner-Participant to Steiner Financial Services Corporation for services in connection with the Lease multiplied by (b) the fraction the numerator of which is the Purchase Price for such unit of Equipment and the denominator of which is the Purchase Price for all units of Equipment subject to the Lease.

ANNEX D
to Conditional
Sale Agreement

ASSIGNMENT OF LEASE AND AGREEMENT dated as of June 1, 1977 (hereinafter called this Assignment), by and between FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION (hereinafter called the Lessor or the Vendee when acting in its capacity as Trustee) acting not in its individual capacity but solely as trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with Steiner Sea, Air & Rail Co., CI Transportation Leasing Corporation and The Fifth Third Leasing Company, as Beneficial owners (hereinafter together called the Beneficiaries), and MELLON BANK, N.A., acting not in its individual capacity but solely as Agent (hereinafter called the Vendor when acting in its capacity as Agent), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessor, the Beneficiaries, the Lessee as hereinafter defined, and the Parties named in Schedule A thereto (hereinafter called the Investors).

WHEREAS, the Vendee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Documentation), with Thrall Car Manufacturing Company, Pullman Incorporated (Pullman Standard Division) and Whittaker Corporation (Berwick Forge & Fabricating Division) (hereinafter together called the Builders) providing for the sale to the Vendee of such units of railroad equipment (hereinafter called the Units) described in the Annexes thereto as are delivered to and accepted by the Vendee thereunder; and

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), providing for the leasing by the Lessor to the Lessee of the Units; and

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 to the Vendor;

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

1. 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 right, title and interest, powers, privileges, and other benefits under the Lease, including, 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 under or pursuant to the provisions of 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. In furtherance of the foregoing assignment, the Lessor 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 as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof. Notwithstanding the foregoing, the Payments shall not be deemed to include (y) payments by the Lessee to the Lessor or the Beneficiaries pursuant to Sections 6 and 9 of the Lease (except indemnification payments owing to the Vendor pursuant to Articles 6 and 13 of the Security Documentation) and (z) payments required to be made by the Lessee to the Vendee or the Beneficiaries pursuant to Paragraph 12 of the Participation Agreement.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease, subject to the provisions of the Lessee's Consent and Agreement attached hereto (hereinafter called the Consent) permitting certain payments to be made directly to the Vendee. To the extent received, the Vendor will promptly apply such Payments to satisfy the obligations of the Lessor under the Security Documentation then due and payable, and, 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 (or to such other party as may be specified by 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 Section 3 of the Lease payable to it as provided in the Consent 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. The Lessor will furnish to the Vendor and the Lessee a schedule, with such changes as may be appropriate from time to time, setting forth the amounts due the Vendor under the Security Documentation and the Lessor under the Lease on each date for the payment thereof.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment 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.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are 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, 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.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, 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 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 the Vendor may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Lessor's obligations under the Security Documentation, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. The Lessor will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, re-register, re-record or redeposit whenever required) any and all further instruments as are reasonably requested by the Vendor in order to confirm or further assure, to the satisfaction of the Agent and its counsel, this Assignment and the provisions hereof under Section 20c of the Interstate Commerce Act and Section 86 of the Railway Act of Canada, as such Section has been or shall be amended.

7. 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, but the Lessee shall be under no obligation to any subsequent or successive assignee except upon written notice of such assignment from the Vendor. 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.

8. This Assignment shall be governed by the laws of the Commonwealth of Pennsylvania, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act. The Lessor will promptly cause this Assignment to be filed and recorded in accordance with Section 15 of the Lease.

9. 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.

10. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no Event of Default under the Lease or 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, except the right to apply the Payments as provided in Paragraph 1 hereof.

11. It is understood and agreed 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 First Security Bank of Utah, National Association, acting in its capacity as Trustee, or for the purpose or with the intention of binding said bank personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement and this Assignment is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under said Trust Agreement, and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank or on account of any representation, undertaking or agreement of the said bank as Lessor, 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 Trust Estate for satisfaction of the same. The Lessor agrees that it will not enter into any amendments or modification of the Trust Agreement except as provided in Article VI, VII, and VIII thereof.

12. The Lessor will pay and discharge any and all claims, liens, charges or security interests (other than 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 its 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 in 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.

13. In the event that the Lessor from time to time makes any payment pursuant to the provisions of the sixth paragraph of Article 16 of the Security Documentation and in the absence of any event of default thereunder, the Lessor shall be subrogated to all rights, powers, privileges and remedies of the Vendor against the Lessee with respect to such payment.

14. This Assignment may be executed in any number of counterparts, such counterparts together constituting but one and the same contract, but the counterparts marked Original Counterpart delivered to the Assignee shall be deemed to be the original counterpart and all other counterparts shall be deemed to be duplicates thereof. Although for convenience this Assignment 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 caused

this instrument to be executed, all as of the date first above written.

[Seal]

Attest:

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION, not in
its individual capacity but
solely as Trustee,

By:

Authorized Officer

[Seal]

Attest:

MELLON BANK, N.A., not in its
individual capacity but solely
as Agent,

Authorized Officer

By:

Authorized Officer

STATE OF UTAH

COUNTY OF SALT LAKE

)
) SS:
)

On this _____ day of _____, 1977, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is an authorized officer of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the seal of said national bank, 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 corporation duly incorporated under the laws of the Commonwealth of Pennsylvania, the Lessee (hereinafter called the Lessee) named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease 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 Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages and other moneys (other than (A) payments provided for in Sections 6 and 9 of the Lease required to be paid to the Lessor or the Beneficiaries, except to the extent that the Lessor is obligated to reimburse the Vendor under Articles 6 and 13 of the Security Documentation, and (B) the payments to be made by the Lessee pursuant to Paragraph 12 of the Participation Agreement) provided for in the Lease (which moneys 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. not in its individual capacity but solely as Agent (hereinafter called the Vendor when acting in its capacity as Agent), the assignee named in the Lease Assignment, to be applied as provided in the Security Documentation, in immediately available funds to the Vendor on the date each such Payment is due;

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

(3) the Payments or sums equivalent to the payments due hereunder shall not be subject to any right of setoff or counterclaim or other defense which the Lessee might have against the Lessor or otherwise, and the payment thereof to

the Vendor shall be final and shall not be subject to, and the Lessee hereby agrees to indemnify the Vendor against, any liens, charges, security interests or claims of any nature whatsoever resulting from a breach by the Lessee of its obligations under the Lease;

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

(5) 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 undersigned, the taking or omission of which might result in an alteration or impairment of the Lease or this Consent and Agreement or of any of the rights created by any thereof.

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 Commonwealth of Pennsylvania and, for all purposes, shall be construed in accordance with the laws of said Commonwealth.

Dated as of _____, 19__

CONSOLIDATED RAIL CORPORATION

[Corporate Seal]

By: _____

Attest:

The foregoing Consent and Agreement is hereby accepted, as of the 1st day of June, 1977.

MELLON BANK, N.A., not in its individual capacity but solely as Agent,

By: _____

[Seal]

Attest:

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF PHILADELPHIA)

On this _____ day of _____, 1977, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is _____ 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 executing 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 _____, 1977, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of MELLON BANK, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national bank, 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 _____