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RECORDATION NO. 10740 Filed 1425
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INTERSTATE COMMERCE COMMISSION

9-225A180
Date AUG 13 1979
Fee $ 100.00
ICC Washington, D. C.

RECORDATION NO. 10740/C Filed 1425
AUG 13 1979 -3 15 PM
INTERSTATE COMMERCE COMMISSION

August 13, 1979

Boston and Maine Corporation
Lease Financing Dated as of August 1, 1979
12% Conditional Sale Indebtedness
Due September 15, 1993
[CS&M Ref.: 5507-001]

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I.C.C.
FEE OPERATION BR

Dear Sir:

Pursuant to 49 U.S.C. § 11303(a), I enclose herewith on behalf of First Security Bank of Utah, N.A. (a party to this transaction) for filing and recordation counterparts of the following documents:

New Number

1. (a) Conditional Sale Agreement dated as of August 1, 1979, between Arlington-Integrated (Rail), Inc., as Owner, and PACCAR, Inc., as Builder; and

— A

(b) Agreement and Assignment dated as of August 1, 1979, between PACCAR, Inc., as Builder, and First Security Bank of Utah, N.A., as Agent.

— B

2. (a) Lease of Railroad Equipment dated as of August 1, 1979, between Robert W. Meserve and Benjamin H. Lacy, Trustees of the Property of Boston and Maine Corporation, as Lessee, and Arlington-Integrated (Rail), Inc., as Owner; and

Counterpart E C Bryant

(b) Assignment of Lease and Agreement dated as of August 1, 1979, between Arlington-Integrated (Rail), Inc., as Owner, and First Security Bank of Utah, N.A., as Agent.

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

(1) Agent-Assignee:

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

(2) Owner-Lessor:

Arlington-Integrated (Rail), Inc.
295 Madison Avenue
New York, N. Y. 10017

(3) Builder-Vendor:

PACCAR, Inc.
1400 North 4th Street
Renton, Washington 98055

(4) Lessee:

Robert W. Meserve and
Benjamin H. Lacy, Trustees
of the Property of Boston
and Maine Corporation
Iron Horse Park
North Billerica, Massachusetts 01862

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

The equipment covered by the aforementioned documents consists of 200 50' 6" 70 ton, class XL box car with 10' sliding doors bearing identifying numbers BM 3200-3399, inclusive.

There is also enclosed a check for $100 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agree-

ment and Assignment (together constituting one document) and the Lease of Railroad Equipment, and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

Henry P. Riordan
As Agent for First Security
Bank of Utah, N.A.

Interstate Commerce Commission,
Washington, D. C. 20423

Attention of Mr. H. G. Homme, Jr.,
Secretary.

Encls.

7

RECORDATION NO. 10740 B Filed 1425

AUG 13 1979 -3 15 PM

INTERSTATE COMMERCE COMMISSION

# LEASE OF RAILROAD EQUIPMENT

Dated as of August 1, 1979

between

ROBERT W. MESERVE and BENJAMIN H. LACY,
Trustees of the Property of Boston
and Maine Corporation, Debtor,

Lessee

and

ARLINGTON-INTEGRATED (RAIL), INC.,

Lessor

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LEASE OF RAILROAD EQUIPMENT dated as of August 1, 1979, between ROBERT W. MESERVE AND BENJAMIN H. LACY, TRUSTEES OF THE PROPERTY OF BOSTON AND MAINE CORPORATION, DEBTOR (such Trustees being hereinafter called the "Lessee" and such corporation being hereinafter called the "Debtor"), and ARLINGTON-INTEGRATED (RAIL), INC., a Delaware corporation (the "Lessor").

On March 12, 1970, a petition was filed for the reorganization of the Debtor under Section 77 of the Bankruptcy Act in the United States District Court for the District of Massachusetts (the "Court") and such petition was duly approved as properly filed by the Court (the proceedings with respect thereto being hereinafter called the "Reorganization Proceedings") and Robert W. Meserve and Benjamin H. Lacy were duly qualified as Trustees of the property of the Debtor on May 18, 1970 and on August 3, 1973, respectively.

The Lessor has entered or will enter into a conditional sale agreement (the "Security Document") with PACCAR, Inc. (the "Builder"), pursuant to which the Lessor has agreed or will agree to purchase and take delivery of the railroad equipment described in Schedule A hereto (the "Equipment").

To induce Lessor to purchase the Equipment the Lessee agrees (i) to lease from the Lessor all units of the Equipment as are delivered and accepted and settled for as shall be described in one or more certificates of acceptance in the form provided by Lessor (a "Certificate of Acceptance") at the rentals and for the term and upon the conditions hereinafter provided (each such unit so leased being hereinafter called a "Unit") and (ii) to indemnify the Lessor for certain tax losses should they occur pursuant to a Tax Indemnity Agreement dated as of the date hereof (the "Indemnity Agreement").

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

§ 1. Net Lease. This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts

hereunder shall be absolute and unconditional and, except as herein provided, the Lessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions, counterclaims or setoffs due or alleged to be due by reason of any past, present or future claims whatsoever of the Lessee against the Lessor, whether under this Lease, under the Security Document or otherwise, including the Lessee's rights by subrogation hereunder or thereunder against the Lessor or the Builder 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 bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee as required by the terms of this Lease shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units. Each delivery of a Unit to the Lessor under the Security Document shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Document. Upon delivery of a Unit, the Lessee will cause an employee or

agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Lessor from the Builder and itself hereunder and to execute and deliver to the Lessor a Certificate of Acceptance stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The inspection and approval and the delivery, inspection and acceptance hereunder of any unit of Equipment not purchased by the Lessor pursuant to the Security Document shall be null and void and ineffective to subject such Unit to this Lease. The Lessee hereby represents and warrants to the Lessor that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Lessee or its agent as agent for the Lessor hereunder.

§ 3. Rentals. With respect to each Unit subject to this Lease, the Lessee will pay to the Lessor as (i) basic rentals 180 consecutive monthly payments, payable on the 15th day of the month in advance, commencing October 15, 1979, and (ii) interim rental one payment on October 15, 1979. Each monthly basic rental payment shall be in an amount equal to 1.0% of the Purchase Price (defined to be the amount set forth in a Builder's invoice with respect to such Unit and approved by the Lessee) of each Unit subject to this Lease on the date of such payment. The interim rental payment shall be in an amount equal to the product of the Purchase Price of each Unit subject to this Lease on the date of payment multiplied by 0.0334% for each day elapsed from and including the date the Builder is paid the Purchase Price with respect to such Unit under the Security Document (the "Closing Date") for such Unit to, but excluding, October 15, 1979.

If any of the monthly rental payment dates referred to above is not a business day in Boston, Massachusetts, the monthly rental payment otherwise payable on such date shall then be payable on the next succeeding business day.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on October 15, 1994.

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

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Lessee or its affiliates, on railroad equipment used by them of the same or a similar type for convenience of identification of their respective rights to use the Equipment.

§ 6. Taxes. The Lessee agrees to pay or cause to be paid promptly, and on written demand to indemnify and hold the Lessor harmless from, all income, gross receipts, franchise, sales, use, property, ad valorem, value added, leasing, leasing use, stamp, excise or other taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Lessor, the Lessee or any Unit by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; this Lease or the transactions contemplated by this Lease (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); excluding, however: Taxes of the United States or of any state or local government or governmental subdivision or authority thereof imposed on or measured solely by the net income or excess profits of the party entitled to indemnification, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting or causing to be contested the same in good faith and by appropriate proceedings if counsel for the Lessor shall have determined that the nonpayment thereof or the contest thereof in such proceedings does not, in the opinion of such counsel, adversely affect the title, property or rights of the Lessor.

The amount which the Lessee shall be required as reasonably determined by the indemnified party to pay with respect to any Taxes indemnified against pursuant to this § 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

In case any report or return is required to be made with respect to any obligation of the Lessee under this § 6 or arising out of this § 6, the Lessee shall either make or cause to be made such report or return in such manner as will show the interests of the Lessor in the Units, or shall promptly notify or cause to be notified the Lessor of such requirement and shall make or cause to be made, at its own expense, such report or return in such manner as shall be satisfactory to the Lessor.

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

§ 7. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease (each such occurrence being hereinafter called a "Casualty Occurrence"), during the term of this Lease, or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Lessee shall promptly and fully notify or cause to be notified the Lessor with respect thereto. On the rental payment date next succeeding the delivery of such notice (or, in the event such rental payment date will occur within 15 days after delivery of notice, on the following rental payment date), the Lessee shall pay or cause to be paid 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 of such Unit as of such Casualty Occurence (the "Calculation Date"). Upon the making of such payment by or on behalf of the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, 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, before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor and no Event of Default hereunder, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to retain 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. If any such Event of Default or event

has occurred and is continuing, the Lessee shall promptly pay all such proceeds to the Lessor.

The Casualty Value of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of each Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit pursuant to section 38 of the Code. Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

In the event of the requisition for use of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall constitute 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. All payments received by the Lessor or the Lessee from the requisitioning authority for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the requisitioning authority for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Lessor.

As between the Lessee and Lessor, the Lessee will bear the responsibility for and risk of damage to or destruction or loss of any Unit. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the 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 in accordance with the terms of this Lease (including the storage period provided under §§ 11 and 14 hereof), maintain or cause to be maintained, at its own expense, public liability, property and casualty insurance in respect of the Units at the time

subject hereto, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against risks customarily insured against by the Lessee on similar equipment owned by it. The proceeds of such insurance shall be payable to the Lessor and the Lessee as their respective interests may appear.

The Lessee shall obtain from each insurer under the paragraph immediately above an agreement, by endorsement or separate instrument, that such insurer will give the Lessor 30 days' written notice before such insurer's policy shall be materially altered or canceled or not renewed. On or prior to the delivery and acceptance of any Unit hereunder, and in January of each year, the Lessee shall, to the extent applicable under the next preceding paragraph, deliver to the Lessor a certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1980, the Lessee will furnish or cause to be furnished to the Lessor 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, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request and when so specifically requested by the Lessor, such report with regard to repairs shall be made by the chief mechanical officer of the Lessee and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof have been preserved or replaced. The Lessor shall have the right by its agents to inspect the Units and the Lessee's and its agent's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE LESSOR DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE

OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the 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 the Builder. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the 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, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all the laws of the jurisdiction in which its operations involving the Unit may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any

power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will fully conform therewith at no expense to the Lessor; provided, however, that the Lessee may upon written notice to the Lessor, in good faith, contest or cause to be contested the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor under this Lease.

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

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an Addition thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted. Such maintenance shall include the performance of any overhauls required pursuant to standard and prudent railroad requirements (including, but not limited to, the interchange rules of the Association of American Railroads).

The Lessee and its affiliates, at their own cost and expense, may from time to time make such alterations, modifications and additions (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit) (hereinafter collectively called "Additions") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without

further act vest in the Lessor in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for, any such original Part, (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the terms of the second or third paragraph of this § 9 or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Lessee shall pay or cause to be paid, and shall protect, indemnify and hold the Lessor harmless from and against any and all causes of action, suits, penalties, claims, demands, judgments, losses, liabilities, costs, charges and expenses of any nature whatsoever which may be imposed on, incurred by or asserted against the Lessor (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation reasonable attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units, including, without limitation, those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any claims based on strict liability in tort or imposed by statute; or (iii) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or

of any other equipment in connection with the Units; excluding, however, any matter resulting from an act or omission of the Lessor which would constitute the wilful misconduct or gross negligence of the Lessor. The Lessee and the Lessor each agrees to give the other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against.

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

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

(A) payment of any part of the rental provided in § 3 hereof, payment in respect of any Casualty Occurrence pursuant to § 7 hereof or payment due under the Indemnity Agreement shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for 5 business days after such payment is due; or

(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

(C) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in any document or certificate executed by the Lessee in connection herewith and such default shall continue for 30 days after written notice from

the Lessor to the Lessee specifying the default and demanding that the same be remedied; or

(D) any representation or warranty made by the Lessee herein or in any certificate or statement furnished to the Lessor pursuant to or in connection with any such agreement proves untrue in any material respect as of the date of issuance or making thereof; or

(E) a decree or order is entered in the Reorganization Proceedings or otherwise preventing or disabling the Lessee from performing any of its obligations under this Lease; or

(F) if the obligations of the Lessee hereunder are assumed by a corporation or by the Debtor's successor pursuant to a plan of reorganization for the Debtor approved in the Reorganization Proceedings (such corporation or successor being hereinafter called the "Successor") and either

(i) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as such Section 77 may hereafter be amended, or under any other provision of Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Successor 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 assumed obligations of the Successor under this Lease and under the Tax Indemnity Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by or on behalf of a trustee or trustees or other similar officer appointed (whether or not subject to confirmation or ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or officer, within 60 days after such petition shall have been filed; or

(ii) any proceedings shall be commenced by or against the Successor for any relief which includes, or might result in, any modification of the obli-

gations of the Successor under this Lease or under the Tax Indemnity Agreement under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustments of the obligations of the Successor hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Successor under this Lease and under the Tax Indemnity Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by or on behalf of a trustee or trustees or receiver or receivers or other similar officer appointed (whether or not subject to confirmation or ratification) for the Successor or for the property of the Successor in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers or officers, within 60 days after such proceedings shall have been commenced;

then, in any such case, the Lessor, at its option, may:

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for

any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 8% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Lessor shall have sold or leased any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such a sale an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net

proceeds of such sale, and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Lease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Lessor reasonably estimates to be obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Lease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 8% per annum discount, compounded, in the case of rental which is estimated under clause II of this sentence, monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

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

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

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; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Lessor.

The parties hereto acknowledge that the Debtor is a railroad subject to the Reorganization Proceedings and that notwithstanding any provision herein to the contrary,

(i) no termination of this Lease by reason of an Event of Default shall be final except after delivery of written notice from the Lessor or the Vendor to the Lessee of the event giving rise to the Event of Default and the continuance uncured of such Event of Default for 30 days;

(ii) the Lessee's interests under this Lease shall be deemed assigned to and its obligations under this Lease shall be deemed assumed by any Successor;

(iii) in the event the Reorganization Proceedings are dismissed under Section 77(g) of the Bankruptcy Act or otherwise and liquidation of the Debtor is instituted, the Lessee shall select one of the following options in order to fulfill its obligations under this Lease:

(a) the Trustees of the Debtor shall continue to perform this Lease in accordance with its terms and provisions;

(b) this Lease may be assigned and the obligation under the Lease assumed by a new lessee, with the consent of the Lessor and the Vendor which consent shall not be unreasonably withheld, and upon such assignment and assumption, the obligation of the Lessee hereunder shall terminate without further liability; or

(c) the Lessee may, upon payment of a sum equal to the next succeeding 12 installments of monthly basic rent cancel this Lease after the effective date of the order of liquidation of the Debtor, provided that the Lessee shall perform the obligations with respect to the Equipment required by the Lessee hereunder with respect thereto during such 12-month period. In the event

the Lessee shall provide a new lessee in accordance with the preceding subparagraph (iii)(b) during such 12-month period, the Lessee shall be relieved of the obligations of the remaining balance of such 12-month period upon the payment and performance by such new lessee of the obligations and payments required hereunder, and the Lessee shall be entitled to a credit in the amount thereof; provided, however, that the Lessee shall pay all costs of repainting, restenciling and transportation of the Units subject to this Lease to such new lessee; and provided, further, that the Lessee's obligation with respect to the return of the Equipment shall be as set forth in Section 11 hereof in the event the Lessee elects to proceed with the option set forth in this subparagraph (iii)(c).

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

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

(b) furnish and arrange for the Lessor to store such Units on the lines of the Lessee until such Units have been sold, leased or otherwise disposed of by the Lessor, the Lessor agreeing to use its best efforts to sell, lease or otherwise dispose of the Units within one year, and

(c) cause the Units to be moved to such interchange point or points with the lines of the Lessee as

shall be designated by the Lessor upon any sale, lease or other disposal of all or any of the Units.

During any storage period the Lessee will permit the Lessor or any persons designated by it to inspect the Units. The assembling, delivery, storage, maintenance and transporting of the Units as provided in this Section 11 shall be at the expense and risk of the Lessee (and the Lessee will maintain the insurance required by § 7 of this Lease to be maintained during this period) and are of the essence of this Lease; and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of any such Unit, to inspect the same. In the event that the Units or any thereof are sold, the Lessee shall pay to the Lessor the per diem interchange earned for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date such Unit is available to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the 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 and to give all appropriate notices and directions to the Association of American Railroads to change the registration of such Unit from the Lessee or the Sublessee to the Lessor or as the Lessor may direct.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee.

The Lessor will assign certain of its rights under this Lease as security to First Security Bank of Utah, N.A., acting as Agent (the "Vendor"), pursuant to an Assignment of Lease dated as of the date hereof (the "Lease Assignment") and the Lessee will consent to the Lease Assignment pursuant

to a Consent and Agreement substantially in the form attached hereto (the "Consent") and such other consents as may be requested by the Lessor pursuant to the terms hereof.

After any such assignment, the term "Lessor" as used in this Lease shall include the Vendor for all purposes of this Lease, including but not limited to the provisions of §§ 6 and 9 hereof, and this Lease shall be binding upon and inure to the benefit of the Lessor and the Vendor, and the successors and assigns, agents, principals and servants of any such party, and the Lessee and its successors, and, to the extent permitted hereby, assigns. With respect to § 9, the wilful misconduct or gross negligence of any one such person shall not affect the rights of any other such person under such Section except to the extent such other person shall have been otherwise compensated for any loss indemnified against by any other person.

During the term of this Lease, if no Event of Default shall have occurred and the Vendor is entitled to apply the payment as set forth in the Consent, the Lessee's use and quiet enjoyment of the Units shall not be disturbed by the Lessor or anyone claiming solely through or under the Lessor. Without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as specifically set forth herein. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or resulting from claims against the Lessor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Lessor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance 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 proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Lessor, materially adversely affect the interest of the Lessor in the Equipment or in the income and proceeds from the Equipment. Except to the extent specifically permitted by the provisions hereof, the Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the

possession and use of the Units by it or any affiliate in accordance with the terms hereof and (i) to permit the use of the Units by a railroad company or companies incorporated in the United States of America with which the Lessee has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights or over which railroad equipment of such railroad company or companies is regularly operated pursuant to contract, and (ii) 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. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

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

§ 13. Right of First Refusal. Unless an Event of Default, or any event or condition which, upon notice or lapse of time, would constitute an Event of Default, shall have occurred and be continuing, the Lessor shall not, at any time within three months after the end of the original term of this Lease sell Equipment unless:

(a) the Lessor shall have received from a responsible purchaser or purchasers a bona fide offer or offers in writing to purchase in the aggregate all, but not less than all, of the Units;

(b) the Lessor shall have given the Lessee notice (i) setting forth in detail the identity of such purchaser or purchasers, the proposed purchase price or

prices, the proposed date of purchase and all other material terms and conditions of such purchase, including, without limitation, any arrangements for the financing of such purchase known to the Lessor, and (ii) offering to sell such Units to the Lessee upon the same terms and conditions as those set forth in such notice; and

(c) the Lessee shall not have notified the Lessor, within 20 days following receipt of such notice, of its election to purchase such Units upon such terms and conditions.

If the Lessee shall not have so elected to purchase such Units, the Lessor may sell such Items of Equipment at a price and upon other terms and conditions no less favorable to the Lessor than those specified in such notice.

§ 14. Return of Units upon Expiration of Term. On or prior to the termination of the term of this Lease or as soon as practicable on or after the termination of the term of this Lease and in any event not later than 90 days after the termination of the term of this Lease, the Lessee will, at its own cost and expense, at the request of the Lessor, cause each Unit to be transported to such point or points on the Lessee's lines as shall be designated by the Lessor immediately prior to such termination and arrange for the Lessor to store such Unit on any of Lessee's lines of railroad or premises approved by the Lessor for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 90 days from the date at which at least 95% of such Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee. 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 or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable for any injury to or the death of any person exercising, either on behalf of the Lessor or any prospective purchaser or user, the rights of inspection granted under this sentence, except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents and except to the extent otherwise provided by law. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the

premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Lessor pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Lessor pursuant to § 9 hereof and have removed therefrom at Lessee's expense any Part or Addition title to which is in the Lessee or any other person pursuant to such § 9 and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. If any Unit suffers a Casualty Occurrence during any period prior to its return to the Lessor as provided for in this § 14 or during any storage period provided for in this § 14, the Lessee shall pay to the Lessor the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of the term of this Lease as to such Unit, belong to and be the property of the Lessor.

§ 15. Recording. The Lessor, at its own expense, will cause this Lease, the Security Document, and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessor will, at its own expense, undertake the filing, registering, deposit, and recording required of the Lessor under the Security Document, and 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 for the purpose of proper protection, to its satisfaction, of the Lessor's interests in the Units, or for the purpose of carrying out the intention of this Lease.

§ 16. Conditions. Prior to the delivery and acceptance of any Unit hereunder, the Lessor shall have been advised that all conditions to its purchase of the Equipment under and as contemplated by the Security Document shall have been satisfied, including, without limitation, the filing and recording of this Lease and the Security Document with the Interstate Commerce Commission.

Lessee agrees to deliver to Lessor at its request such opinions and certificates in form and substance as shall

be reasonably required by Lessor in order to meet Lessor's obligations under, and to satisfy the conditions of, the Security Document.

§ 17. Lessor's Right To Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the rate of 13% per annum (or such lesser amount as may be legally enforceable), shall be payable by the Lessee upon demand.

§ 18. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to interest at a rate of 13% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 19. Representations and Warranties of the Lessee. The Lessee represents and warrants to the Vendor, the Investors and the Lessor as follows:

(a) The Debtor is a corporation duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation and is duly qualified to do business and in good standing in such other jurisdictions in which the business and activities of the Debtor require such qualification.

(b) The Lessee has full power, authority and legal right to carry on the Debtor's business as now conducted and is duly authorized and empowered in the Reorganization Proceedings pursuant to an order or orders of the court in the Reorganization Proceedings (the "Order") and otherwise to execute and deliver this Lease, the Indemnity Agreement and the Consent and to fulfill and comply with the terms, conditions and provisions hereof and thereof; this Lease, the Consent and the Indemnity Agreement have been duly authorized and approved in the Reorganization Proceedings pursuant to the Order, from which no appeal has been taken, and otherwise and have been or will be, on or before delivery of any unit of

Equipment, duly authorized, executed and delivered and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute or will then constitute valid, legal and binding agreements, enforceable against the Lessee in accordance with their terms.

(c) There are no actions, suits or proceedings (whether or not purportedly on behalf of the Lessee or the Debtor) pending or (to the knowledge of the Lessee) threatened against or affecting the Lessee or any property rights of the Lessee at law or in equity or before any commission or other administrative agency which could materially and adversely affect the condition, financial or otherwise, of the Lessee or materially prevent or interfere with its ability or right to perform its duties and obligations under this Lease, the Indemnity Agreement or the Consent; and the Lessee is not to its knowledge in default with respect to any order or decree of any court or governmental commission, agency or instrumentality.

(d) The Lessee is not a party to any agreement or instrument or subject to any charter or other restriction materially and adversely affecting the business, present or proposed, of the Lessee or the operations, property or assets or condition, financial or otherwise, of the Lessee.

(e) Neither the execution and delivery of this Lease, the Indemnity Agreement or the Consent nor the consummation of the transactions herein and therein contemplated nor the fulfillment of, or compliance with, the terms and provisions hereof and thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any order entered in the Reorganization Proceedings or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which either of the Lessee or the Debtor is now a party or by which it or its property may be bound, or constitute (with the giving of notice or the lapse of time or both) a default thereunder or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any property of the Lessee or the Debtor or upon the Equipment pursuant to the terms of any such agreement or instrument or violate any applicable law or governmental rule or regulation.

(f) No authorization, approval, order or license is required from any court or other governmental or public body or authority (including, but not limited to the Interstate Commerce Commission) in connection with the execution, delivery and performance by the Lessee of this Lease or the Consent, other than the Order.

(g) The Lessee has filed all foreign, Federal, state and local income tax returns which are required to be filed, and has paid or made provisions for the payment of all income taxes which have or may become due pursuant to said returns or pursuant to any assessment received by it, other than such taxes which are being contested in good faith and which in the aggregate do not involve material amounts.

(h) The Lessee has furnished to the Lessor copies of the Debtor's Offer to Purchase dated May 3, 1979, containing audited consolidated balance sheets of the Debtor as of December 31, 1977, and 1978, and the related consolidated statements of operations, accumulated deficit and changes in financial position for the twelve month periods then ended. Such financial statements are in accordance with the books and records of the Debtor and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the period covered by the financial statements. The financial statements present fairly the financial condition of the Debtor at such dates and the results of its operations and changes in its financial position for such periods; and from the date of the last such balance sheet, there has not been any material adverse change in the assets, liabilities, business or condition (financial or otherwise) of the Debtor.

§ 20. Reports. The Lessee will deliver to the Lessor (i) as soon as available and in any event within 120 days after the end of each fiscal year of the Debtor, a certificate signed by a responsible officer of the Debtor stating that a review of the activities of the Debtor during such year has been made under his supervision with a view to determining whether the Debtor has kept, observed, performed and fulfilled all of the obligations of the Debtor under this Lease and that to the best of his knowledge the Debtor during such year has kept, observed, performed and fulfilled each and every covenant, obligation and condition contained herein, or if an Event of Default (as defined in the Lease)

shall exist or if an event has occurred and is continuing which, with the giving of notice or the passage of time or both, would constitute an Event of Default, specifying such Event of Default and all such events and the nature and status thereof; (ii) as soon as available and in any event within 90 days after the end of each quarterly period (except the last) of each fiscal year, and to the extent available a balance sheet of the Debtor as at the end of such period, and an income statement of the Debtor for the period beginning on the first day of such quarterly period and ending on the date of such balance sheet, setting forth comparative figures for the corresponding period of the preceding fiscal year, all in reasonable detail and certified by the principal accounting officer employed by the Debtor; (iii) as soon as available and in any event within 150 days after the end of each fiscal year, a copy of the consolidated balance sheet of the Debtor and the related statements of operations, accumulated deficit and changes in financial position, certified by independent public accountants; and any other report reasonably required; and (iv) promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default, or which with notice or lapse of time or both would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 20 a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter.

§ 21. Necessary Costs and Expenses of Administration. Upon the issuance of the Order, it is hereby expressly understood and agreed that any and all obligations of the Lessee hereunder and any and all amounts payable in connection therewith, including but not limited to those arising out of any breach of warranty or breach or termination of this Lease, or otherwise, together with interest thereon to the date of payment thereof, shall be deemed to be necessary costs and expenses of administration incurred by the Trustees in the Reorganization Proceedings and shall rank equally and ratably with all other expenses of administration of the Trustees, except trustees' certificates heretofore or hereafter issued by the Trustee.

Subject to the provisions of the last paragraph of Section 10 hereof, in case of any sale or conveyance of

all or substantially all of the lines of railroad of the Debtor, or of the lines of the Debtor on which a substantial portion of the Equipment is used, the purchaser or transferee of the purchaser, shall not be at liberty to refuse to accept performance of this Lease or to disaffirm it and any such purchaser and any such transferee shall assume and agree to perform each and all of the obligations of the Lessee hereunder.

The Lessee agrees, but only so long as the Lessee is subject to the Reorganization Proceedings, that, so long as any portion of the Conditional Sale Indebtedness shall be outstanding, the Lessee will not assume or enter into any other leases of equipment, equipment trust agreements, conditional sale agreements or other liabilities or obligations in connection with the leasing or financing of the acquisition of railroad rolling stock, (i) if such liabilities or obligations would be entitled, directly or indirectly, to any priority in right of payment over the obligations of the Lessee hereunder or (ii) if such liabilities or obligations would be secured, directly or indirectly, by any mortgage, lien or other security interest in property of the Debtor (except the equipment or other property involved in the particular transaction) unless the obligations of the Lessee hereunder are equally and ratably secured thereby, provided that nothing herein shall restrict the right of the Trustees to issue and sell trustees' certificates for any proper purpose.

§ 22. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when delivered to such other party or by registered or certified mail, postage prepaid, addressed as follows:

if to the Lessor, at 295 Madison Avenue, New York, N. Y. 10017, Attention of Mr. Stephen Goldsmith and Benjamin D. Fein, Esq., 575 Madison Avenue, New York, New York 10022;

if to the Lessee, at Iron Horse Park, North Billerica, Massachusetts 01862, Attention of Vice President, Equipment;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by

any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party. Any notice to the Lessee regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Lessor.

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

This Lease exclusively and completely states the rights of the Lessor and the Lessee between them 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.

All agreements, indemnities, representations and warranties contained in this Lease or in any document or certificate delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Lease and the expiration or other termination of this Lease, with respect to matters or events occurring during the term of this Lease or with respect to the obligations of Lessee under Sections 10, 11 and 14.

§ 24. 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 Lessor shall be deemed to be the original counterpart. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 25. Incorporation of Tax Indemnity Agreement. The Indemnity Agreement between the Lessor and Lessee dated as of the date hereof is incorporated herein by reference. All the rights and obligations in said Agreement shall be

considered as rights and obligations under this Lease and inseparable therefrom.

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

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

ROBERT W. MESERVE and BENJAMIN H. LACY, Trustees of the Property of Boston and Maine Corporation, Debtor,

by _____
as Trustee, not individually

by _____
as Trustee, not individually

Approved as to form
B & M Corp. Law Dept.

ARLINGTON-INTEGRATED (RAIL), INC.,

by _____

[CORPORATE SEAL]

Attest:

_____

COMMONWEALTH OF MASSACHUSETTS,)
) ss.:
COUNTY OF SUFFOLK, )

On this 30th day of July 1979, before me personally appeared ROBERT W. MESERVE and BENJAMIN H. LACY, to me personally known, who, being by me duly sworn, say that they are Trustees of the Property of Boston and Maine Corporation, Debtor, and that said instrument was signed on behalf of said Debtor by authority of the United States District Court for the District of Massachusetts, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said Trustees.

Notary Public

[Notarial Seal]

My Commission Expires June 6, 1986

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

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is of ARLINGTON-INTEGRATED (RAIL), INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission Expires

Schedule A

| Type | Builder's Specification | Builder's Plant | Quantity | Estimated Unit Base Price (in United States Dollars) | Estimated Total Base Price (in United States Dollars) | Road Numbers (Inclusive) | Estimated Time and Place of Delivery |
|---|---|---|---|---|---|---|---|
| 50' 6", 70-ton Class XL boxcar with 10" sliding doors | PACCAR Specifications PC-655, Revision B, dated May 18, 1979; Drawing 2904-201 | Renton, Washington | 200 | $41,040 | $8,208,000 | BM 3200-BM 3399, both inclusive | August-September 1979 at Renton, Washington. |

SCHEDULE B to LEASE

Casualty Values*

| Item I: Rental Payment Date | Percentage of Purchase Price | Rental Payment Date | Percentage of Purchase Price |
|---|---|---|---|
| October 15, 1979 | 86.3885 | August 15, 1982 | 94.3141 |
| November 15, 1979 | 87.0921 | September 15, 1982 | 94.2844 |
| December 15, 1979 | 87.8181 | October 15, 1982 | 94.2002 |
| January 15, 1980 | 88.2128 | November 15, 1982 | 94.1181 |
| February 15, 1980 | 88.6215 | December 15, 1982 | 94.0382 |
| March 15, 1980 | 89.0447 | January 15, 1983 | 93.9026 |
| April 15, 1980 | 89.4827 | February 15, 1983 | 93.7678 |
| May 15, 1980 | 89.8529 | March 15, 1983 | 93.6338 |
| June 15, 1980 | 90.2365 | April 15, 1983 | 93.5008 |
| July 15, 1980 | 90.5509 | May 15, 1983 | 93.3214 |
| August 15, 1980 | 90.8773 | June 15, 1983 | 93.1418 |
| September 15, 1980 | 91.2161 | July 15, 1983 | 92.9145 |
| October 15, 1980 | 91.4844 | August 15, 1983 | 92.6858 |
| November 15, 1980 | 91.7636 | September 15, 1983 | 92.4557 |
| December 15, 1980 | 92.0540 | October 15, 1983 | 92.1768 |
| January 15, 1981 | 92.2727 | November 15, 1983 | 91.8951 |
| February 15, 1981 | 92.5010 | December 15, 1983 | 91.6107 |
| March 15, 1981 | 92.7392 | January 15, 1984 | 91.2881 |
| April 15, 1981 | 92.9875 | February 15, 1984 | 90.9623 |
| May 15, 1981 | 93.1781 | March 15, 1984 | 90.6333 |
| June 15, 1981 | 93.3776 | April 15, 1984 | 90.3011 |
| July 15, 1981 | 93.5182 | May 15, 1984 | 89.9618 |
| August 15, 1981 | 93.6663 | June 15, 1984 | 89.6193 |
| September 15, 1981 | 93.8223 | July 15, 1984 | 89.2695 |
| October 15, 1981 | 93.9183 | August 15, 1984 | 88.9163 |
| November 15, 1981 | 94.0207 | September 15, 1984 | 88.5598 |
| December 15, 1981 | 94.1299 | October 15, 1984 | 88.1959 |
| January 15, 1982 | 94.1778 | November 15, 1984 | 87.8285 |
| February 15, 1982 | 94.2311 | December 15, 1984 | 87.4577 |
| March 15, 1982 | 94.2898 | January 15, 1985 | 87.0794 |
| April 15, 1982 | 94.3543 | February 15, 1985 | 86.6975 |
| May 15, 1982 | 94.3667 | March 15, 1985 | 86.3120 |
| June 15, 1982 | 94.3836 | April 15, 1985 | 85.9228 |
| July 15, 1982 | 94.3472 | May 15, 1985 | 85.5272 |

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

## Casualty Values*

| Rental Payment Date | Percentage of Purchase Price | Rental Payment Date | Percentage of Purchase Price |
|---|---|---|---|
| June 15, 1985 | 85.1279 | May 15, 1988 | 68.0774 |
| July 15, 1985 | 84.7221 | June 15, 1988 | 67.5011 |
| August 15, 1985 | 84.3125 | July 15, 1988 | 66.9205 |
| September 15, 1985 | 83.8990 | August 15, 1988 | 66.3344 |
| October 15, 1985 | 83.4790 | September 15, 1988 | 65.7428 |
| November 15, 1985 | 83.0549 | October 15, 1988 | 65.1468 |
| December 15, 1985 | 82.6269 | November 15, 1988 | 64.5451 |
| January 15, 1986 | 82.1922 | December 15, 1988 | 63.9378 |
| February 15, 1986 | 81.7534 | January 15, 1989 | 63.3259 |
| March 15, 1986 | 81.3105 | February 15, 1989 | 62.7081 |
| April 15, 1986 | 80.8634 | March 15, 1989 | 62.0846 |
| May 15, 1986 | 80.4107 | April 15, 1989 | 61.4551 |
| June 15, 1986 | 79.9537 | May 15, 1989 | 60.8222 |
| July 15, 1986 | 79.4911 | June 15, 1989 | 60.1833 |
| August 15, 1986 | 79.0240 | July 15, 1989 | 59.5409 |
| September 15, 1986 | 78.5526 | August 15, 1989 | 58.8923 |
| October 15, 1986 | 78.0754 | September 15, 1989 | 58.2376 |
| November 15, 1986 | 77.5937 | October 15, 1989 | 57.5791 |
| December 15, 1986 | 77.1074 | November 15, 1989 | 56.9144 |
| January 15, 1987 | 76.6152 | December 15, 1989 | 56.2433 |
| February 15, 1987 | 76.1184 | January 15, 1990 | 55.5683 |
| March 15, 1987 | 75.6169 | February 15, 1990 | 54.8868 |
| April 15, 1987 | 75.1108 | March 15, 1990 | 54.1988 |
| May 15, 1987 | 74.5997 | April 15, 1990 | 53.5042 |
| June 15, 1987 | 74.0839 | May 15, 1990 | 52.8069 |
| July 15, 1987 | 73.5630 | June 15, 1990 | 52.1028 |
| August 15, 1987 | 73.0373 | July 15, 1990 | 51.3960 |
| September 15, 1987 | 72.5067 | August 15, 1990 | 50.6823 |
| October 15, 1987 | 71.9709 | September 15, 1990 | 49.9618 |
| November 15, 1987 | 71.4301 | October 15, 1990 | 49.2382 |
| December 15, 1987 | 70.8842 | November 15, 1990 | 48.5076 |
| January 15, 1988 | 70.3331 | December 15, 1990 | 47.7699 |
| February 15, 1988 | 69.7768 | January 15, 1991 | 47.0290 |
| March 15, 1988 | 69.2152 | February 15, 1991 | 46.2808 |
| April 15, 1988 | 68.6484 | March 15, 1991 | 45.5254 |

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

Casualty Values*

| Rental Payment Date | Percentage of Purchase Price | Rental Payment Date | Percentage of Purchase Price |
|---|---|---|---|
| April 15, 1991 | 44.7625 | January 15, 1993 | 29.4238 |
| May 15, 1991 | 43.9978 | February 15, 1993 | 28.8570 |
| June 15, 1991 | 43.2255 | March 15, 1993 | 28.2904 |
| July 15, 1991 | 42.4511 | April 15, 1993 | 27.7242 |
| August 15, 1991 | 41.6692 | May 15, 1993 | 27.2305 |
| September 15, 1991 | 40.8794 | June 15, 1993 | 26.7395 |
| October 15, 1991 | 40.0880 | July 15, 1993 | 26.3234 |
| November 15, 1991 | 39.2882 | August 15, 1993 | 25.9125 |
| December 15, 1991 | 38.4804 | September 15, 1993 | 25.5071 |
| January 15, 1992 | 37.7161 | October 15, 1993 | 25.1689 |
| February 15, 1992 | 36.9446 | November 15, 1993 | 24.7959 |
| March 15, 1992 | 36.1657 | December 15, 1993 | 24.3870 |
| April 15, 1992 | 35.3795 | January 15, 1994 | 24.0133 |
| May 15, 1992 | 34.6498 | February 15, 1994 | 23.6037 |
| June 15, 1992 | 33.9144 | March 15, 1994 | 23.1571 |
| July 15, 1992 | 33.2373 | April 15, 1994 | 22.6727 |
| August 15, 1992 | 32.5563 | May 15, 1994 | 22.3329 |
| September 15, 1992 | 31.8713 | June 15, 1994 | 21.9581 |
| October 15, 1992 | 31.2464 | July 15, 1994 | 21.7309 |
| November 15, 1992 | 30.6194 | August 15, 1994 | 21.4719 |
| December 15, 1992 | 29.9905 | September 15, 1994 | 21.1802 |
| | | October 15, 1994 | 20.0000 |

| Item II: | Anniversary of Delivery and Acceptance | Percentage of Purchase Price |
|---|---|---|
| | Third | 19.2308 |
| | Fifth | 12.8205 |
| | Seventh | 6.4103 |

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

LEASE OF RAILROAD EQUIPMENT

Dated as of August 1, 1979

between

ROBERT W. MESERVE and BENJAMIN H. LACY,
Trustees of the Property of Boston
and Maine Corporation, Debtor,

Lessee

and

ARLINGTON-INTEGRATED (RAIL), INC.,

Lessor

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LEASE OF RAILROAD EQUIPMENT dated as of August 1, 1979, between ROBERT W. MESERVE AND BENJAMIN H. LACY, TRUSTEES OF THE PROPERTY OF BOSTON AND MAINE CORPORATION, DEBTOR (such Trustees being hereinafter called the "Lessee" and such corporation being hereinafter called the "Debtor"), and ARLINGTON-INTEGRATED (RAIL), INC., a Delaware corporation (the "Lessor").

On March 12, 1970, a petition was filed for the reorganization of the Debtor under Section 77 of the Bankruptcy Act in the United States District Court for the District of Massachusetts (the "Court") and such petition was duly approved as properly filed by the Court (the proceedings with respect thereto being hereinafter called the "Reorganization Proceedings") and Robert W. Meserve and Benjamin H. Lacy were duly qualified as Trustees of the property of the Debtor on May 18, 1970 and on August 3, 1973, respectively.

The Lessor has entered or will enter into a conditional sale agreement (the "Security Document") with PACCAR, Inc. (the "Builder"), pursuant to which the Lessor has agreed or will agree to purchase and take delivery of the railroad equipment described in Schedule A hereto (the "Equipment").

To induce Lessor to purchase the Equipment the Lessee agrees (i) to lease from the Lessor all units of the Equipment as are delivered and accepted and settled for as shall be described in one or more certificates of acceptance in the form provided by Lessor (a "Certificate of Acceptance") at the rentals and for the term and upon the conditions hereinafter provided (each such unit so leased being hereinafter called a "Unit") and (ii) to indemnify the Lessor for certain tax losses should they occur pursuant to a Tax Indemnity Agreement dated as of the date hereof (the "Indemnity Agreement").

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

§ 1. Net Lease. This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts

hereunder shall be absolute and unconditional and, except as herein provided, the Lessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions, counterclaims or setoffs due or alleged to be due by reason of any past, present or future claims whatsoever of the Lessee against the Lessor, whether under this Lease, under the Security Document or otherwise, including the Lessee's rights by subrogation hereunder or thereunder against the Lessor or the Builder 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 bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee as required by the terms of this Lease shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units. Each delivery of a Unit to the Lessor under the Security Document shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Document. Upon delivery of a Unit, the Lessee will cause an employee or

agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Lessor from the Builder and itself hereunder and to execute and deliver to the Lessor a Certificate of Acceptance stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The inspection and approval and the delivery, inspection and acceptance hereunder of any unit of Equipment not purchased by the Lessor pursuant to the Security Document shall be null and void and ineffective to subject such Unit to this Lease. The Lessee hereby represents and warrants to the Lessor that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Lessee or its agent as agent for the Lessor hereunder.

§ 3. Rentals. With respect to each Unit subject to this Lease, the Lessee will pay to the Lessor as (i) basic rentals 180 consecutive monthly payments, payable on the 15th day of the month in advance, commencing October 15, 1979, and (ii) interim rental one payment on October 15, 1979. Each monthly basic rental payment shall be in an amount equal to 1.0% of the Purchase Price (defined to be the amount set forth in a Builder's invoice with respect to such Unit and approved by the Lessee) of each Unit subject to this Lease on the date of such payment. The interim rental payment shall be in an amount equal to the product of the Purchase Price of each Unit subject to this Lease on the date of payment multiplied by 0.0334% for each day elapsed from and including the date the Builder is paid the Purchase Price with respect to such Unit under the Security Document (the "Closing Date") for such Unit to, but excluding, October 15, 1979.

If any of the monthly rental payment dates referred to above is not a business day in Boston, Massachusetts, the monthly rental payment otherwise payable on such date shall then be payable on the next succeeding business day.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on October 15, 1994.

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

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Lessee or its affiliates, on railroad equipment used by them of the same or a similar type for convenience of identification of their respective rights to use the Equipment.

§ 6. Taxes. The Lessee agrees to pay or cause to be paid promptly, and on written demand to indemnify and hold the Lessor harmless from, all income, gross receipts, franchise, sales, use, property, ad valorem, value added, leasing, leasing use, stamp, excise or other taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Lessor, the Lessee or any Unit by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; this Lease or the transactions contemplated by this Lease (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); excluding, however: Taxes of the United States or of any state or local government or governmental subdivision or authority thereof imposed on or measured solely by the net income or excess profits of the party entitled to indemnification, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting or causing to be contested the same in good faith and by appropriate proceedings if counsel for the Lessor shall have determined that the nonpayment thereof or the contest thereof in such proceedings does not, in the opinion of such counsel, adversely affect the title, property or rights of the Lessor.

The amount which the Lessee shall be required as reasonably determined by the indemnified party to pay with respect to any Taxes indemnified against pursuant to this § 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

In case any report or return is required to be made with respect to any obligation of the Lessee under this § 6 or arising out of this § 6, the Lessee shall either make or cause to be made such report or return in such manner as will show the interests of the Lessor in the Units, or shall promptly notify or cause to be notified the Lessor of such requirement and shall make or cause to be made, at its own expense, such report or return in such manner as shall be satisfactory to the Lessor.

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

§ 7. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease (each such occurrence being hereinafter called a "Casualty Occurrence"), during the term of this Lease, or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Lessee shall promptly and fully notify or cause to be notified the Lessor with respect thereto. On the rental payment date next succeeding the delivery of such notice (or, in the event such rental payment date will occur within 15 days after delivery of notice, on the following rental payment date), the Lessee shall pay or cause to be paid 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 of such Unit as of such Casualty Occurence (the "Calculation Date"). Upon the making of such payment by or on behalf of the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, 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, before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor and no Event of Default hereunder, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to retain 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. If any such Event of Default or event

has occurred and is continuing, the Lessee shall promptly pay all such proceeds to the Lessor.

The Casualty Value of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of each Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit pursuant to section 38 of the Code. Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

In the event of the requisition for use of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall constitute 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. All payments received by the Lessor or the Lessee from the requisitioning authority for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the requisitioning authority for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Lessor.

As between the Lessee and Lessor, the Lessee will bear the responsibility for and risk of damage to or destruction or loss of any Unit. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the 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 in accordance with the terms of this Lease (including the storage period provided under §§ 11 and 14 hereof), maintain or cause to be maintained, at its own expense, public liability, property and casualty insurance in respect of the Units at the time

subject hereto, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against risks customarily insured against by the Lessee on similar equipment owned by it. The proceeds of such insurance shall be payable to the Lessor and the Lessee as their respective interests may appear.

The Lessee shall obtain from each insurer under the paragraph immediately above an agreement, by endorsement or separate instrument, that such insurer will give the Lessor 30 days' written notice before such insurer's policy shall be materially altered or canceled or not renewed. On or prior to the delivery and acceptance of any Unit hereunder, and in January of each year, the Lessee shall, to the extent applicable under the next preceding paragraph, deliver to the Lessor a certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1980, the Lessee will furnish or cause to be furnished to the Lessor 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, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request and when so specifically requested by the Lessor, such report with regard to repairs shall be made by the chief mechanical officer of the Lessee and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof have been preserved or replaced. The Lessor shall have the right by its agents to inspect the Units and the Lessee's and its agent's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE LESSOR DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE

OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the 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 the Builder. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the 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, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all the laws of the jurisdiction in which its operations involving the Unit may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any

power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will fully conform therewith at no expense to the Lessor; provided, however, that the Lessee may upon written notice to the Lessor, in good faith, contest or cause to be contested the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor under this Lease.

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

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an Addition thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted. Such maintenance shall include the performance of any overhauls required pursuant to standard and prudent railroad requirements (including, but not limited to, the interchange rules of the Association of American Railroads).

The Lessee and its affiliates, at their own cost and expense, may from time to time make such alterations, modifications and additions (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit) (hereinafter collectively called "Additions") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without

further act vest in the Lessor in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for, any such original Part, (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the terms of the second or third paragraph of this § 9 or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Lessee shall pay or cause to be paid, and shall protect, indemnify and hold the Lessor harmless from and against any and all causes of action, suits, penalties, claims, demands, judgments, losses, liabilities, costs, charges and expenses of any nature whatsoever which may be imposed on, incurred by or asserted against the Lessor (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation reasonable attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units, including, without limitation, those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any claims based on strict liability in tort or imposed by statute; or (iii) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or

of any other equipment in connection with the Units; excluding, however, any matter resulting from an act or omission of the Lessor which would constitute the wilful misconduct or gross negligence of the Lessor. The Lessee and the Lessor each agrees to give the other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against.

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

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

(A) payment of any part of the rental provided in § 3 hereof, payment in respect of any Casualty Occurrence pursuant to § 7 hereof or payment due under the Indemnity Agreement shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for 5 business days after such payment is due; or

(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

(C) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in any document or certificate executed by the Lessee in connection herewith and such default shall continue for 30 days after written notice from

the Lessor to the Lessee specifying the default and demanding that the same be remedied; or

(D) any representation or warranty made by the Lessee herein or in any certificate or statement furnished to the Lessor pursuant to or in connection with any such agreement proves untrue in any material respect as of the date of issuance or making thereof; or

(E) a decree or order is entered in the Reorganization Proceedings or otherwise preventing or disabling the Lessee from performing any of its obligations under this Lease; or

(F) if the obligations of the Lessee hereunder are assumed by a corporation or by the Debtor's successor pursuant to a plan of reorganization for the Debtor approved in the Reorganization Proceedings (such corporation or successor being hereinafter called the "Successor") and either

(i) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as such Section 77 may hereafter be amended, or under any other provision of Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Successor 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 assumed obligations of the Successor under this Lease and under the Tax Indemnity Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by or on behalf of a trustee or trustees or other similar officer appointed (whether or not subject to confirmation or ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or officer, within 60 days after such petition shall have been filed; or

(ii) any proceedings shall be commenced by or against the Successor for any relief which includes, or might result in, any modification of the obli-

gations of the Successor under this Lease or under the Tax Indemnity Agreement under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustments of the obligations of the Successor hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Successor under this Lease and under the Tax Indemnity Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by or on behalf of a trustee or trustees or receiver or receivers or other similar officer appointed (whether or not subject to confirmation or ratification) for the Successor or for the property of the Successor in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers or officers, within 60 days after such proceedings shall have been commenced;

then, in any such case, the Lessor, at its option, may:

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for

any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 8% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Lessor shall have sold or leased any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such a sale an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net

proceeds of such sale, and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Lease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Lessor reasonably estimates to be obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Lease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 8% per annum discount, compounded, in the case of rental which is estimated under clause II of this sentence, monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

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

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

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; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Lessor.

The parties hereto acknowledge that the Debtor is a railroad subject to the Reorganization Proceedings and that notwithstanding any provision herein to the contrary,

(i) no termination of this Lease by reason of an Event of Default shall be final except after delivery of written notice from the Lessor or the Vendor to the Lessee of the event giving rise to the Event of Default and the continuance uncured of such Event of Default for 30 days;

(ii) the Lessee's interests under this Lease shall be deemed assigned to and its obligations under this Lease shall be deemed assumed by any Successor;

(iii) in the event the Reorganization Proceedings are dismissed under Section 77(g) of the Bankruptcy Act or otherwise and liquidation of the Debtor is instituted, the Lessee shall select one of the following options in order to fulfill its obligations under this Lease:

(a) the Trustees of the Debtor shall continue to perform this Lease in accordance with its terms and provisions;

(b) this Lease may be assigned and the obligation under the Lease assumed by a new lessee, with the consent of the Lessor and the Vendor which consent shall not be unreasonably withheld, and upon such assignment and assumption, the obligation of the Lessee hereunder shall terminate without further liability; or

(c) the Lessee may, upon payment of a sum equal to the next succeeding 12 installments of monthly basic rent cancel this Lease after the effective date of the order of liquidation of the Debtor, provided that the Lessee shall perform the obligations with respect to the Equipment required by the Lessee hereunder with respect thereto during such 12-month period. In the event

the Lessee shall provide a new lessee in accordance with the preceding subparagraph (iii)(b) during such 12-month period, the Lessee shall be relieved of the obligations of the remaining balance of such 12-month period upon the payment and performance by such new lessee of the obligations and payments required hereunder, and the Lessee shall be entitled to a credit in the amount thereof; provided, however, that the Lessee shall pay all costs of repainting, restenciling and transportation of the Units subject to this Lease to such new lessee; and provided, further, that the Lessee's obligation with respect to the return of the Equipment shall be as set forth in Section 11 hereof in the event the Lessee elects to proceed with the option set forth in this subparagraph (iii)(c).

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

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

(b) furnish and arrange for the Lessor to store such Units on the lines of the Lessee until such Units have been sold, leased or otherwise disposed of by the Lessor, the Lessor agreeing to use its best efforts to sell, lease or otherwise dispose of the Units within one year, and

(c) cause the Units to be moved to such interchange point or points with the lines of the Lessee as

shall be designated by the Lessor upon any sale, lease or other disposal of all or any of the Units.

During any storage period the Lessee will permit the Lessor or any persons designated by it to inspect the Units. The assembling, delivery, storage, maintenance and transporting of the Units as provided in this Section 11 shall be at the expense and risk of the Lessee (and the Lessee will maintain the insurance required by § 7 of this Lease to be maintained during this period) and are of the essence of this Lease; and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of any such Unit, to inspect the same. In the event that the Units or any thereof are sold, the Lessee shall pay to the Lessor the per diem interchange earned for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date such Unit is available to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the 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 and to give all appropriate notices and directions to the Association of American Railroads to change the registration of such Unit from the Lessee or the Sublessee to the Lessor or as the Lessor may direct.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee.

The Lessor will assign certain of its rights under this Lease as security to First Security Bank of Utah, N.A., acting as Agent (the "Vendor"), pursuant to an Assignment of Lease dated as of the date hereof (the "Lease Assignment") and the Lessee will consent to the Lease Assignment pursuant

to a Consent and Agreement substantially in the form attached hereto (the "Consent") and such other consents as may be requested by the Lessor pursuant to the terms hereof.

After any such assignment, the term "Lessor" as used in this Lease shall include the Vendor for all purposes of this Lease, including but not limited to the provisions of §§ 6 and 9 hereof, and this Lease shall be binding upon and inure to the benefit of the Lessor and the Vendor, and the successors and assigns, agents, principals and servants of any such party, and the Lessee and its successors, and, to the extent permitted hereby, assigns. With respect to § 9, the wilful misconduct or gross negligence of any one such person shall not affect the rights of any other such person under such Section except to the extent such other person shall have been otherwise compensated for any loss indemnified against by any other person.

During the term of this Lease, if no Event of Default shall have occurred and the Vendor is entitled to apply the payment as set forth in the Consent, the Lessee's use and quiet enjoyment of the Units shall not be disturbed by the Lessor or anyone claiming solely through or under the Lessor. Without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as specifically set forth herein. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or resulting from claims against the Lessor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Lessor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance 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 proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Lessor, materially adversely affect the interest of the Lessor in the Equipment or in the income and proceeds from the Equipment. Except to the extent specifically permitted by the provisions hereof, the Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the

possession and use of the Units by it or any affiliate in accordance with the terms hereof and (i) to permit the use of the Units by a railroad company or companies incorporated in the United States of America with which the Lessee has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights or over which railroad equipment of such railroad company or companies is regularly operated pursuant to contract, and (ii) 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. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

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

§ 13. Right of First Refusal. Unless an Event of Default, or any event or condition which, upon notice or lapse of time, would constitute an Event of Default, shall have occurred and be continuing, the Lessor shall not, at any time within three months after the end of the original term of this Lease sell Equipment unless:

(a) the Lessor shall have received from a responsible purchaser or purchasers a bona fide offer or offers in writing to purchase in the aggregate all, but not less than all, of the Units;

(b) the Lessor shall have given the Lessee notice (i) setting forth in detail the identity of such purchaser or purchasers, the proposed purchase price or

prices, the proposed date of purchase and all other material terms and conditions of such purchase, including, without limitation, any arrangements for the financing of such purchase known to the Lessor, and (ii) offering to sell such Units to the Lessee upon the same terms and conditions as those set forth in such notice; and

(c) the Lessee shall not have notified the Lessor, within 20 days following receipt of such notice, of its election to purchase such Units upon such terms and conditions.

If the Lessee shall not have so elected to purchase such Units, the Lessor may sell such Items of Equipment at a price and upon other terms and conditions no less favorable to the Lessor than those specified in such notice.

§ 14. Return of Units upon Expiration of Term. On or prior to the termination of the term of this Lease or as soon as practicable on or after the termination of the term of this Lease and in any event not later than 90 days after the termination of the term of this Lease, the Lessee will, at its own cost and expense, at the request of the Lessor, cause each Unit to be transported to such point or points on the Lessee's lines as shall be designated by the Lessor immediately prior to such termination and arrange for the Lessor to store such Unit on any of Lessee's lines of railroad or premises approved by the Lessor for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 90 days from the date at which at least 95% of such Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee. 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 or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable for any injury to or the death of any person exercising, either on behalf of the Lessor or any prospective purchaser or user, the rights of inspection granted under this sentence, except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents and except to the extent otherwise provided by law. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the

premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Lessor pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Lessor pursuant to § 9 hereof and have removed therefrom at Lessee's expense any Part or Addition title to which is in the Lessee or any other person pursuant to such § 9 and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. If any Unit suffers a Casualty Occurrence during any period prior to its return to the Lessor as provided for in this § 14 or during any storage period provided for in this § 14, the Lessee shall pay to the Lessor the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of the term of this Lease as to such Unit, belong to and be the property of the Lessor.

§ 15. Recording. The Lessor, at its own expense, will cause this Lease, the Security Document, and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessor will, at its own expense, undertake the filing, registering, deposit, and recording required of the Lessor under the Security Document, and 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 for the purpose of proper protection, to its satisfaction, of the Lessor's interests in the Units, or for the purpose of carrying out the intention of this Lease.

§ 16. Conditions. Prior to the delivery and acceptance of any Unit hereunder, the Lessor shall have been advised that all conditions to its purchase of the Equipment under and as contemplated by the Security Document shall have been satisfied, including, without limitation, the filing and recording of this Lease and the Security Document with the Interstate Commerce Commission.

Lessee agrees to deliver to Lessor at its request such opinions and certificates in form and substance as shall

be reasonably required by Lessor in order to meet Lessor's obligations under, and to satisfy the conditions of, the Security Document.

§ 17. Lessor's Right To Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the rate of 13% per annum (or such lesser amount as may be legally enforceable), shall be payable by the Lessee upon demand.

§ 18. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to interest at a rate of 13% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 19. Representations and Warranties of the Lessee. The Lessee represents and warrants to the Vendor, the Investors and the Lessor as follows:

(a) The Debtor is a corporation duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation and is duly qualified to do business and in good standing in such other jurisdictions in which the business and activities of the Debtor require such qualification.

(b) The Lessee has full power, authority and legal right to carry on the Debtor's business as now conducted and is duly authorized and empowered in the Reorganization Proceedings pursuant to an order or orders of the court in the Reorganization Proceedings (the "Order") and otherwise to execute and deliver this Lease, the Indemnity Agreement and the Consent and to fulfill and comply with the terms, conditions and provisions hereof and thereof; this Lease, the Consent and the Indemnity Agreement have been duly authorized and approved in the Reorganization Proceedings pursuant to the Order, from which no appeal has been taken, and otherwise and have been or will be, on or before delivery of any unit of

Equipment, duly authorized, executed and delivered and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute or will then constitute valid, legal and binding agreements, enforceable against the Lessee in accordance with their terms.

(c) There are no actions, suits or proceedings (whether or not purportedly on behalf of the Lessee or the Debtor) pending or (to the knowledge of the Lessee) threatened against or affecting the Lessee or any property rights of the Lessee at law or in equity or before any commission or other administrative agency which could materially and adversely affect the condition, financial or otherwise, of the Lessee or materially prevent or interfere with its ability or right to perform its duties and obligations under this Lease, the Indemnity Agreement or the Consent; and the Lessee is not to its knowledge in default with respect to any order or decree of any court or governmental commission, agency or instrumentality.

(d) The Lessee is not a party to any agreement or instrument or subject to any charter or other restriction materially and adversely affecting the business, present or proposed, of the Lessee or the operations, property or assets or condition, financial or otherwise, of the Lessee.

(e) Neither the execution and delivery of this Lease, the Indemnity Agreement or the Consent nor the consummation of the transactions herein and therein contemplated nor the fulfillment of, or compliance with, the terms and provisions hereof and thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any order entered in the Reorganization Proceedings or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which either of the Lessee or the Debtor is now a party or by which it or its property may be bound, or constitute (with the giving of notice or the lapse of time or both) a default thereunder or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any property of the Lessee or the Debtor or upon the Equipment pursuant to the terms of any such agreement or instrument or violate any applicable law or governmental rule or regulation.

(f) No authorization, approval, order or license is required from any court or other governmental or public body or authority (including, but not limited to the Interstate Commerce Commission) in connection with the execution, delivery and performance by the Lessee of this Lease or the Consent, other than the Order.

(g) The Lessee has filed all foreign, Federal, state and local income tax returns which are required to be filed, and has paid or made provisions for the payment of all income taxes which have or may become due pursuant to said returns or pursuant to any assessment received by it, other than such taxes which are being contested in good faith and which in the aggregate do not involve material amounts.

(h) The Lessee has furnished to the Lessor copies of the Debtor's Offer to Purchase dated May 3, 1979, containing audited consolidated balance sheets of the Debtor as of December 31, 1977, and 1978, and the related consolidated statements of operations, accumulated deficit and changes in financial position for the twelve month periods then ended. Such financial statements are in accordance with the books and records of the Debtor and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the period covered by the financial statements. The financial statements present fairly the financial condition of the Debtor at such dates and the results of its operations and changes in its financial position for such periods; and from the date of the last such balance sheet, there has not been any material adverse change in the assets, liabilities, business or condition (financial or otherwise) of the Debtor.

§ 20. Reports. The Lessee will deliver to the Lessor (i) as soon as available and in any event within 120 days after the end of each fiscal year of the Debtor, a certificate signed by a responsible officer of the Debtor stating that a review of the activities of the Debtor during such year has been made under his supervision with a view to determining whether the Debtor has kept, observed, performed and fulfilled all of the obligations of the Debtor under this Lease and that to the best of his knowledge the Debtor during such year has kept, observed, performed and fulfilled each and every covenant, obligation and condition contained herein, or if an Event of Default (as defined in the Lease)

shall exist or if an event has occurred and is continuing which, with the giving of notice or the passage of time or both, would constitute an Event of Default, specifying such Event of Default and all such events and the nature and status thereof; (ii) as soon as available and in any event within 90 days after the end of each quarterly period (except the last) of each fiscal year, and to the extent available a balance sheet of the Debtor as at the end of such period, and an income statement of the Debtor for the period beginning on the first day of such quarterly period and ending on the date of such balance sheet, setting forth comparative figures for the corresponding period of the preceding fiscal year, all in reasonable detail and certified by the principal accounting officer employed by the Debtor; (iii) as soon as available and in any event within 150 days after the end of each fiscal year, a copy of the consolidated balance sheet of the Debtor and the related statements of operations, accumulated deficit and changes in financial position, certified by independent public accountants; and any other report reasonably required; and (iv) promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default, or which with notice or lapse of time or both would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 20 a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter.

§ 21. Necessary Costs and Expenses of Administration. Upon the issuance of the Order, it is hereby expressly understood and agreed that any and all obligations of the Lessee hereunder and any and all amounts payable in connection therewith, including but not limited to those arising out of any breach of warranty or breach or termination of this Lease, or otherwise, together with interest thereon to the date of payment thereof, shall be deemed to be necessary costs and expenses of administration incurred by the Trustees in the Reorganization Proceedings and shall rank equally and ratably with all other expenses of administration of the Trustees, except trustees' certificates heretofore or hereafter issued by the Trustee.

Subject to the provisions of the last paragraph of Section 10 hereof, in case of any sale or conveyance of

all or substantially all of the lines of railroad of the Debtor, or of the lines of the Debtor on which a substantial portion of the Equipment is used, the purchaser or transferee of the purchaser, shall not be at liberty to refuse to accept performance of this Lease or to disaffirm it and any such purchaser and any such transferee shall assume and agree to perform each and all of the obligations of the Lessee hereunder.

The Lessee agrees, but only so long as the Lessee is subject to the Reorganization Proceedings, that, so long as any portion of the Conditional Sale Indebtedness shall be outstanding, the Lessee will not assume or enter into any other leases of equipment, equipment trust agreements, conditional sale agreements or other liabilities or obligations in connection with the leasing or financing of the acquisition of railroad rolling stock, (i) if such liabilities or obligations would be entitled, directly or indirectly, to any priority in right of payment over the obligations of the Lessee hereunder or (ii) if such liabilities or obligations would be secured, directly or indirectly, by any mortgage, lien or other security interest in property of the Debtor (except the equipment or other property involved in the particular transaction) unless the obligations of the Lessee hereunder are equally and ratably secured thereby, provided that nothing herein shall restrict the right of the Trustees to issue and sell trustees' certificates for any proper purpose.

§ 22. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when delivered to such other party or by registered or certified mail, postage prepaid, addressed as follows:

> if to the Lessor, at 295 Madison Avenue, New York, N. Y. 10017, Attention of Mr. Stephen Goldsmith and Benjamin D. Fein, Esq., 575 Madison Avenue, New York, New York 10022;
>
> if to the Lessee, at Iron Horse Park, North Billerica, Massachusetts 01862, Attention of Vice President, Equipment;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by

any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party. Any notice to the Lessee regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Lessor.

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

This Lease exclusively and completely states the rights of the Lessor and the Lessee between them 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.

All agreements, indemnities, representations and warranties contained in this Lease or in any document or certificate delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Lease and the expiration or other termination of this Lease, with respect to matters or events occurring during the term of this Lease or with respect to the obligations of Lessee under Sections 10, 11 and 14.

§ 24. 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 Lessor shall be deemed to be the original counterpart. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 25. Incorporation of Tax Indemnity Agreement. The Indemnity Agreement between the Lessor and Lessee dated as of the date hereof is incorporated herein by reference. All the rights and obligations in said Agreement shall be

considered as rights and obligations under this Lease and inseparable therefrom.

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

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

ROBERT W. MESERVE and BENJAMIN H. LACY, Trustees of the Property of Boston and Maine Corporation, Debtor,

by _____
as Trustee, not individually

by _____
as Trustee, not individually

ARLINGTON-INTEGRATED (RAIL), INC.,

by _____

[CORPORATE SEAL]

Attest:

COMMONWEALTH OF MASSACHUSETTS,)
) ss.:
COUNTY OF SUFFOLK, )

On this day of 1979, before me personally appeared ROBERT W. MESERVE and BENJAMIN H. LACY, to me personally known, who, being by me duly sworn, say that they are Trustees of the Property of Boston and Maine Corporation, Debtor, and that said instrument was signed on behalf of said Debtor by authority of the United States District Court for the District of Massachusetts, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said Trustees.

_____
Notary Public

[Notarial Seal]

My Commission Expires

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

On this 10th day of August 1979, before me personally appeared Stephen Goldsmith, to me personally known, who, being by me duly sworn, says that he is Vice President of ARLINGTON-INTEGRATED (RAIL), INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Marilyn Deppen
Notary Public
MARILYN DEPPEN
Notary Public, State of New York
No. 31-4691585
Qualified in New York County
Commission Expires March 30, 1981

[Notarial Seal]

My Commission Expires

Schedule A

| Type | Builder's Specification | Builder's Plant | Quantity | Estimated Unit Base Price (in United States Dollars) | Estimated Total Base Price (in United States Dollars) | Road Numbers (Inclusive) | Estimated Time and Place of Delivery |
|---|---|---|---|---|---|---|---|
| 50' 6", 70-ton Class XL boxcar with 10" sliding doors | PACCAR Specifications PC-655, Revision B, dated May 18, 1979; Drawing 2904-201 | Renton, Washington | 200 | $41,040 | $8,208,000 | BM 3200-BM 3399, both inclusive | August-September 1979 at Renton, Washington. |

SCHEDULE B to LEASE

Casualty Values*

| Item I: Rental Payment Date | Percentage of Purchase Price | Rental Payment Date | Percentage of Purchase Price |
|---|---|---|---|
| October 15, 1979 | 86.3885 | August 15, 1982 | 94.3141 |
| November 15, 1979 | 87.0921 | September 15, 1982 | 94.2844 |
| December 15, 1979 | 87.8181 | October 15, 1982 | 94.2002 |
| January 15, 1980 | 88.2128 | November 15, 1982 | 94.1181 |
| February 15, 1980 | 88.6215 | December 15, 1982 | 94.0382 |
| March 15, 1980 | 89.0447 | January 15, 1983 | 93.9026 |
| April 15, 1980 | 89.4827 | February 15, 1983 | 93.7678 |
| May 15, 1980 | 89.8529 | March 15, 1983 | 93.6338 |
| June 15, 1980 | 90.2365 | April 15, 1983 | 93.5008 |
| July 15, 1980 | 90.5509 | May 15, 1983 | 93.3214 |
| August 15, 1980 | 90.8773 | June 15, 1983 | 93.1418 |
| September 15, 1980 | 91.2161 | July 15, 1983 | 92.9145 |
| October 15, 1980 | 91.4844 | August 15, 1983 | 92.6858 |
| November 15, 1980 | 91.7636 | September 15, 1983 | 92.4557 |
| December 15, 1980 | 92.0540 | October 15, 1983 | 92.1768 |
| January 15, 1981 | 92.2727 | November 15, 1983 | 91.8951 |
| February 15, 1981 | 92.5010 | December 15, 1983 | 91.6107 |
| March 15, 1981 | 92.7392 | January 15, 1984 | 91.2881 |
| April 15, 1981 | 92.9875 | February 15, 1984 | 90.9623 |
| May 15, 1981 | 93.1781 | March 15, 1984 | 90.6333 |
| June 15, 1981 | 93.3776 | April 15, 1984 | 90.3011 |
| July 15, 1981 | 93.5182 | May 15, 1984 | 89.9618 |
| August 15, 1981 | 93.6663 | June 15, 1984 | 89.6193 |
| September 15, 1981 | 93.8223 | July 15, 1984 | 89.2695 |
| October 15, 1981 | 93.9183 | August 15, 1984 | 88.9163 |
| November 15, 1981 | 94.0207 | September 15, 1984 | 88.5598 |
| December 15, 1981 | 94.1299 | October 15, 1984 | 88.1959 |
| January 15, 1982 | 94.1778 | November 15, 1984 | 87.8285 |
| February 15, 1982 | 94.2311 | December 15, 1984 | 87.4577 |
| March 15, 1982 | 94.2898 | January 15, 1985 | 87.0794 |
| April 15, 1982 | 94.3543 | February 15, 1985 | 86.6975 |
| May 15, 1982 | 94.3667 | March 15, 1985 | 86.3120 |
| June 15, 1982 | 94.3836 | April 15, 1985 | 85.9228 |
| July 15, 1982 | 94.3472 | May 15, 1985 | 85.5272 |

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

## Casualty Values*

| Rental Payment Date | Percentage of Purchase Price | Rental Payment Date | Percentage of Purchase Price |
|---|---|---|---|
| June 15, 1985 | 85.1279 | May 15, 1988 | 68.0774 |
| July 15, 1985 | 84.7221 | June 15, 1988 | 67.5011 |
| August 15, 1985 | 84.3125 | July 15, 1988 | 66.9205 |
| September 15, 1985 | 83.8990 | August 15, 1988 | 66.3344 |
| October 15, 1985 | 83.4790 | September 15, 1988 | 65.7428 |
| November 15, 1985 | 83.0549 | October 15, 1988 | 65.1468 |
| December 15, 1985 | 82.6269 | November 15, 1988 | 64.5451 |
| January 15, 1986 | 82.1922 | December 15, 1988 | 63.9378 |
| February 15, 1986 | 81.7534 | January 15, 1989 | 63.3259 |
| March 15, 1986 | 81.3105 | February 15, 1989 | 62.7081 |
| April 15, 1986 | 80.8634 | March 15, 1989 | 62.0846 |
| May 15, 1986 | 80.4107 | April 15, 1989 | 61.4551 |
| June 15, 1986 | 79.9537 | May 15, 1989 | 60.8222 |
| July 15, 1986 | 79.4911 | June 15, 1989 | 60.1833 |
| August 15, 1986 | 79.0240 | July 15, 1989 | 59.5409 |
| September 15, 1986 | 78.5526 | August 15, 1989 | 58.8923 |
| October 15, 1986 | 78.0754 | September 15, 1989 | 58.2376 |
| November 15, 1986 | 77.5937 | October 15, 1989 | 57.5791 |
| December 15, 1986 | 77.1074 | November 15, 1989 | 56.9144 |
| January 15, 1987 | 76.6152 | December 15, 1989 | 56.2433 |
| February 15, 1987 | 76.1184 | January 15, 1990 | 55.5683 |
| March 15, 1987 | 75.6169 | February 15, 1990 | 54.8868 |
| April 15, 1987 | 75.1108 | March 15, 1990 | 54.1988 |
| May 15, 1987 | 74.5997 | April 15, 1990 | 53.5042 |
| June 15, 1987 | 74.0839 | May 15, 1990 | 52.8069 |
| July 15, 1987 | 73.5630 | June 15, 1990 | 52.1028 |
| August 15, 1987 | 73.0373 | July 15, 1990 | 51.3960 |
| September 15, 1987 | 72.5067 | August 15, 1990 | 50.6823 |
| October 15, 1987 | 71.9709 | September 15, 1990 | 49.9618 |
| November 15, 1987 | 71.4301 | October 15, 1990 | 49.2382 |
| December 15, 1987 | 70.8842 | November 15, 1990 | 48.5076 |
| January 15, 1988 | 70.3331 | December 15, 1990 | 47.7699 |
| February 15, 1988 | 69.7768 | January 15, 1991 | 47.0290 |
| March 15, 1988 | 69.2152 | February 15, 1991 | 46.2808 |
| April 15, 1988 | 68.6484 | March 15, 1991 | 45.5254 |

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

Casualty Values*

| Rental Payment Date | Percentage of Purchase Price | Rental Payment Date | Percentage of Purchase Price |
|---|---|---|---|
| April 15, 1991 | 44.7625 | January 15, 1993 | 29.4238 |
| May 15, 1991 | 43.9978 | February 15, 1993 | 28.8570 |
| June 15, 1991 | 43.2255 | March 15, 1993 | 28.2904 |
| July 15, 1991 | 42.4511 | April 15, 1993 | 27.7242 |
| August 15, 1991 | 41.6692 | May 15, 1993 | 27.2305 |
| September 15, 1991 | 40.8794 | June 15, 1993 | 26.7395 |
| October 15, 1991 | 40.0880 | July 15, 1993 | 26.3234 |
| November 15, 1991 | 39.2882 | August 15, 1993 | 25.9125 |
| December 15, 1991 | 38.4804 | September 15, 1993 | 25.5071 |
| January 15, 1992 | 37.7161 | October 15, 1993 | 25.1689 |
| February 15, 1992 | 36.9446 | November 15, 1993 | 24.7959 |
| March 15, 1992 | 36.1657 | December 15, 1993 | 24.3870 |
| April 15, 1992 | 35.3795 | January 15, 1994 | 24.0133 |
| May 15, 1992 | 34.6498 | February 15, 1994 | 23.6037 |
| June 15, 1992 | 33.9144 | March 15, 1994 | 23.1571 |
| July 15, 1992 | 33.2373 | April 15, 1994 | 22.6727 |
| August 15, 1992 | 32.5563 | May 15, 1994 | 22.3329 |
| September 15, 1992 | 31.8713 | June 15, 1994 | 21.9581 |
| October 15, 1992 | 31.2464 | July 15, 1994 | 21.7309 |
| November 15, 1992 | 30.6194 | August 15, 1994 | 21.4719 |
| December 15, 1992 | 29.9905 | September 15, 1994 | 21.1802 |
| | | October 15, 1994 | 20.0000 |

| Item II: | Anniversary of Delivery and Acceptance | Percentage of Purchase Price |
|---|---|---|
| | Third | 19.2308 |
| | Fifth | 12.8205 |
| | Seventh | 6.4103 |

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