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RECORDATION NO. _____ Filed & Recorded
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INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

between

SECURITY PACIFIC NATIONAL BANK

and

GRAND TRUNK WESTERN RAILROAD COMPANY

Dated as of November 15, 1971

LEASE OF RAILROAD EQUIPMENT dated as of November 15, 1971, between SECURITY PACIFIC NATIONAL BANK, a national banking association (hereinafter called the Lessor) and GRAND TRUNK WESTERN RAILROAD COMPANY, a Michigan corporation (hereinafter called the Lessee).

WHEREAS, the Lessor has entered into a Conditional Sale Agreement dated as of November 15, 1971 (hereinafter called the Conditional Sale Agreement), with General Motors Corporation (Electro-Motive Division) (hereinafter referred to as the Manufacturer), wherein the Manufacturer agrees to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto; and

WHEREAS, the Manufacturer proposes to assign its interest in the Conditional Sale Agreement to John Hancock Mutual Life Insurance Company (hereinafter referred to as the Vendor); and

WHEREAS, the Lessee desires to lease all the units of said railroad equipment, or such lesser number as are delivered and accepted and settled for under the Conditional Sale Agreement on or prior to December 31, 1971 (hereinafter called the Units), at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS, Canadian National Railway Company, a corporation duly incorporated under the laws of Canada (hereinafter called the Guarantor), of which the Lessee is a wholly-owned subsidiary, has agreed, subject to receipt of the approval of the Governor in Council, to guarantee to the Lessor and the Vendor, as provided in a Guaranty Agreement to be dated as of November 15, 1971 (hereinafter called the Guaranty Agreement), with the Lessor and the Vendor, the due and punctual payment of the sums pay-

able by, and the due and punctual performance of all other obligations of, the Lessee under this Lease;

NOW, **THEREFORE**, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Vendor under the Conditional Sale Agreement:

§ 1. *Delivery and Acceptance of Units.* The Lessor will cause each Unit to be tendered to the Lessee at the point or points within the United States of America or Canada at which, and on the date or dates on which, such Unit is delivered to the Lessor under the Conditional Sale Agreement. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit and to execute and deliver to the Lessor and to the Manufacturer a certificate of acceptance and delivery (hereinafter called the Certificate of Delivery), whereupon 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. In no event shall the Lessee place any Unit in service or otherwise use any Unit prior to the Lessee's acceptance of delivery of such Unit hereunder.

The Lessee represents and warrants that, at the time of delivery of each Unit to the Lessee, such Unit will not have been used by the Lessee and no amortization or depreciation will have been claimed by the Lessee with respect thereto.

§ 2. *Rentals.* The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease 61 consecutive quarterly payments, payable on the business day next pre-

ceding January 15, April 15, July 15 and October 15 of each year commencing January 15, 1972. The first of such quarterly payments shall be in an amount equal to .0198888% of the Purchase Price (as defined in the Conditional Sale Agreement) of each Unit subject to this Lease for each day elapsed from and including the date such Unit is settled for under the Conditional Sale Agreement to January 15, 1972; the next 20 of such payments shall be in an amount equal to 1.40000% of the Purchase Price of each Unit; and the remaining 40 of such payments shall be in an amount equal to 3.12598% of the Purchase Price of each Unit.

All payments provided for in this Lease to be made to the Lessor shall be paid to the Lessor at P. O. Box 2097, Terminal Annex, Los Angeles, California 90051, *attention of Leasing Division*.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatement, reductions or setoffs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or the Manufacturer or the Vendor 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 of or destruction of all or any of the Units from whatsoever cause, the prohibition of or other restriction against use of all or any of the Units by the Lessee or any other person, the interference with such use by any private person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, 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.

§ 3. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§ 6, 9 and 12 hereof, shall terminate on the date on which the final quarterly payment of rent in respect thereof is due hereunder.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Units, upon default by the Lessee hereunder, are subordinate, junior in rank and subject to the rights of the Vendor under the Conditional Sale Agreement.

§ 4. *Identification Marks.* The Lessee will cause such Unit to be kept numbered with the identifying number set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, in letters not less than one inch in height, the following words:

“JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY,
BOSTON, MASSACHUSETTS—SECURITY OWNER”

or other appropriate words designated by the Lessor, with appropriate changes therein and additions thereto as from time to time may be required by law in order or protect the title of the Lessor or the Vendor to such Unit and the rights of the Lessor under this Lease and of the Vendor under the Conditional Sale Agreement. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in ac-

Notwithstanding the foregoing, the Casualty Value of each Unit as of any rental payment date occurring after the expiration of the original term of this Lease shall be the lesser of 15% of the Purchase Price applicable to such Unit or the Fair Market Value of such Unit determined in accordance with the provisions of § 12 hereof.

Except as hereinabove in this § 6 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 after delivery to and acceptance thereof by the Lessee hereunder.

Although the Lessee shall not be required to maintain insurance on any Unit, the Lessee agrees that the benefits of any insurance maintained by it upon the Units will be made available to the Lessor and the Vendor, as their interests may appear, to the extent the Lessee is permitted to do so under such policies of insurance. Any net insurance proceeds as the result of insurance carried by the Lessee or proceeds of payments from any governmental agency as compensation for requisition by condemnation received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 6. If the Lessor shall receive any such net insurance proceeds or any such condemnation payments after the Lessee shall have made payments pursuant to this § 6 without deduction for such net insurance proceeds or such condemnation payments, the Lessor shall pay such proceeds to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds shall remain the property of the Lessor.

§ 7. *Annual Reports.* On or before March 1 in each year commencing with the year 1973, the Lessee will cause

to be furnished to the Lessor and the Vendor in such number of counterparts or copies as may reasonably be requested an accurate statement, as of the preceding January 1, (a) showing the amount, description and numbers of the Units then leased hereunder, the amount, description and number of all Units that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by § 4 hereof and Article 8 of the Conditional Sale Agreements shall have been preserved or replaced. The Lessor shall have the right at its sole cost and expense, by its authorized representatives, to inspect the Units and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor the existence and proper maintenance thereof during the continuance of this Lease.

§ 8. *Disclaimer of Warranties; Lessor's Representation and Warranties; Compliance with Laws and Rules; Maintenance; and Indemnification.* **The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose,** 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 and for the account of the Lessor and/or the Lessee, as their interests may appear, whatever claims and rights the Lessor may have, as vendee, under the provisions of Articles 13 and 14 of the Conditional Sale Agreement and Annex A thereto. Lessee's acceptance of delivery of the Units shall be conclusive evidence as between the Lessee and the Lessor that all Units described in the Certificate of Delivery 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 Lessor represents and warrants as follows:

(i) At the time of delivery of each Unit under this Lease, the Lessor shall have such title to such Unit as is derived from the Manufacturer, unimpaired by any act or omission of the Lessor which will in any manner prevent the performance of this Lease in accordance with its terms and, in addition, such Unit shall be free and clear of all claims, liens and encumbrances which may result from claims against the Lessor not arising out of the ownership thereof which will prevent the performance of this Lease in accordance with its terms; and

(ii) So long as the Lessee shall not be in default under this Lease, the Lessor shall not do (or suffer to be done by any person claiming through or against the Lessor and not against the Lessee or any sublessee) any act which interferes with any and all rights of the Lessee to peaceably and quietly hold, possess and use the Units in accordance with the terms of this Lease.

The Lessor covenants that any sale, assignment, transfer, mortgage or other disposition which it may make of this Lease or of any Unit, whether prior or subsequent to

delivery to the Lessee, shall be expressly subject to the terms and provisions of this Lease; *provided, however*, that this Lease shall be subordinated to the rights of the Vendor under the Conditional Sale Agreement but neither the Lessor nor the Vendor shall have the right to terminate or impair the Lessee's possession or use of the property subject to this Lease so long as the Lessee shall not be in default under this Lease; and, subject to the foregoing, covenants that the Lessor has not done and will not do (or suffer to be done by any person claiming through or against the Lessor) any act which interferes with or impairs (x) the Lessee's possession and use in accordance with the terms of this Lease of the Units or (y) the title to the Units which may be transferred or conveyed to the Lessee under the provisions of §§ 6 and 12 of this Lease and that any title so conveyed shall then be free of any lien, claim and encumbrance of the Vendor.

The Lessor covenants and agrees not to alter, amend or modify the Conditional Sale Agreement without the prior written consent of the Lessee.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects with all laws of the jurisdictions in which the Units may be operated, with the interchange rules of the Association of American Railroads, if applicable, and with all lawful rules of the Department of Transportation and the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units. In the event that such laws or rules require alteration of the Units or in case any equipment or appliance on any such Unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Unit in order to comply

Notwithstanding the foregoing, the Casualty Value of each Unit as of any rental payment date occurring after the expiration of the original term of this Lease shall be the lesser of 15% of the Purchase Price applicable to such Unit or the Fair Market Value of such Unit determined in accordance with the provisions of § 12 hereof.

Except as hereinabove in this § 6 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 after delivery to and acceptance thereof by the Lessee hereunder.

Although the Lessee shall not be required to maintain insurance on any Unit, the Lessee agrees that the benefits of any insurance maintained by it upon the Units will be made available to the Lessor and the Vendor, as their interests may appear, to the extent the Lessee is permitted to do so under such policies of insurance. Any net insurance proceeds as the result of insurance carried by the Lessee or proceeds of payments from any governmental agency as compensation for requisition by condemnation received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 6. If the Lessor shall receive any such net insurance proceeds or any such condemnation payments after the Lessee shall have made payments pursuant to this § 6 without deduction for such net insurance proceeds or such condemnation payments, the Lessor shall pay such proceeds to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds shall remain the property of the Lessor.

§ 7. *Annual Reports.* On or before March 1 in each year commencing with the year 1973, the Lessee will cause

to be furnished to the Lessor and the Vendor in such number of counterparts or copies as may reasonably be requested an accurate statement, as of the preceding January 1, (a) showing the amount, description and numbers of the Units then leased hereunder, the amount, description and number of all Units that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by § 4 hereof and Article 8 of the Conditional Sale Agreements shall have been preserved or replaced. The Lessor shall have the right at its sole cost and expense, by its authorized representatives, to inspect the Units and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor the existence and proper maintenance thereof during the continuance of this Lease.

§ 8. *Disclaimer of Warranties; Lessor's Representation and Warranties; Compliance with Laws and Rules; Maintenance; and Indemnification.* **The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose,** 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 and for the account of the Lessor and/or the Lessee, as their interests may appear, whatever claims and rights the Lessor may have, as vendee, under the provisions of Articles 13 and 14 of the Conditional Sale Agreement and Annex A thereto. Lessee's acceptance of delivery of the Units shall be conclusive evidence as between the Lessee and the Lessor that all Units described in the Certificate of Delivery 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 Lessor represents and warrants as follows:

(i) At the time of delivery of each Unit under this Lease, the Lessor shall have such title to such Unit as is derived from the Manufacturer, unimpaired by any act or omission of the Lessor which will in any manner prevent the performance of this Lease in accordance with its terms and, in addition, such Unit shall be free and clear of all claims, liens and encumbrances which may result from claims against the Lessor not arising out of the ownership thereof which will prevent the performance of this Lease in accordance with its terms; and

(ii) So long as the Lessee shall not be in default under this Lease, the Lessor shall not do (or suffer to be done by any person claiming through or against the Lessor and not against the Lessee or any sublessee) any act which interferes with any and all rights of the Lessee to peaceably and quietly hold, possess and use the Units in accordance with the terms of this Lease.

The Lessor covenants that any sale, assignment, transfer, mortgage or other disposition which it may make of this Lease or of any Unit, whether prior or subsequent to

delivery to the Lessee, shall be expressly subject to the terms and provisions of this Lease; *provided, however*, that this Lease shall be subordinated to the rights of the Vendor under the Conditional Sale Agreement but neither the Lessor nor the Vendor shall have the right to terminate or impair the Lessee's possession or use of the property subject to this Lease so long as the Lessee shall not be in default under this Lease; and, subject to the foregoing, covenants that the Lessor has not done and will not do (or suffer to be done by any person claiming through or against the Lessor) any act which interferes with or impairs (x) the Lessee's possession and use in accordance with the terms of this Lease of the Units or (y) the title to the Units which may be transferred or conveyed to the Lessee under the provisions of §§ 6 and 12 of this Lease and that any title so conveyed shall then be free of any lien, claim and encumbrance of the Vendor.

The Lessor covenants and agrees not to alter, amend or modify the Conditional Sale Agreement without the prior written consent of the Lessee.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects with all laws of the jurisdictions in which the Units may be operated, with the interchange rules of the Association of American Railroads, if applicable, and with all lawful rules of the Department of Transportation and the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units. In the event that such laws or rules require alteration of the Units or in case any equipment or appliance on any such Unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Unit in order to comply

with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, changes, additions and replacements at its own expense; and the Lessee agrees at its own expense to use, maintain and operate such Unit in full compliance with such laws, regulations, requirements and rules so long as it is subject to this Lease; *provided, however*, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, materially adversely affect the property or rights of the Lessor or the Vendor hereunder or under the Conditional Sale Agreement.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good order and repair, reasonable wear and tear excepted.

Any and all additions to any Unit and any and all parts installed on or replacements made to any Unit shall be considered accessions to such Unit (except such as can be removed without damage to, and without impairing the originally intended function or use of, such Unit, including without limitation, racks or partitions [hereinafter called Temporary Alterations]), and at the cost and expense of the Lessee, full ownership thereof free of any lien, charge, security interest or encumbrance (except for those created by the Conditional Sale Agreement) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself. Upon termination of this Lease, the Lessee will remove the Temporary Alterations from the Units and restore the Units to satisfactory operating condition and to their original physical condition at the time of delivery thereof to the Lessee hereunder, reasonable wear and tear excepted.

The Lessee agrees to indemnify and save harmless the Lessor and the Vendor against any charge or claim made

against the Lessor or the Vendor, and against any expense, loss or liability (including but not limited to counsel fees and expenses, patent liabilities, penalties and interest) which the Lessor or the Vendor may incur in any manner by reason of entering into or the performance of the Conditional Sale Agreement or this Lease or by reason of the ownership of any Unit, or which may arise in any manner out of or as the result of the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit under this Lease. The Lessee further agrees to indemnify and save harmless the Lessor and the Vendor against any charge, claim, expense, loss or liability on account of any accident in connection with the operation, use, condition, possession or storage of any Unit resulting in damage to property or injury to any person; *provided, however,* that the Lessee shall not be required to indemnify the Lessor or the Vendor under this paragraph for negligence on the part of the Lessor or the Vendor unless such negligence is attributed to the Lessor or the Vendor solely by reason of their interests in the Units. The indemnities arising under this paragraph shall survive payment of all other obligations under this Lease or the termination of this Lease. Anything herein to the contrary notwithstanding, the Lessee shall not be obligated to indemnify under this paragraph in respect of any charge, claim, expense, loss or liability attributable to a Unit which, and to an event occurring after such Unit, shall have been returned to the Lessor pursuant to §§ 10 or 13 hereof or after this Lease with respect to such Unit has otherwise terminated; *provided, however,* that such charge, claim, expense, loss or liability does not arise as a result of mechanical defects of such Unit which existed at the time such Unit was so returned or this Lease with respect to such Unit terminated.

The Lessee agrees to prepare and deliver to the Lessor and Vendor 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 to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

§ 9. *Default.* If during the continuance of this Lease, one or more of the following events (hereinafter sometimes called Events of Default) shall occur:

A. default shall be made in the payment of any part of the rental provided in § 2 hereof and such default shall continue for 10 days;

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

C. 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 and such default shall continue for 25 days after written notice from the Lessor specifying the default and demanding that the same be remedied;

D. any proceedings shall be commenced by or against the Lessee or the Guarantor for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder or the Guarantor under the Guaranty Agreement) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then

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

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

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 hereinafter 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 and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; 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 (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) 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 (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the use of the Unit during such period, such present value to be computed in each case on a basis of a 5% per annum discount, compounded

quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) 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 or covenants of this Lease other than for the payment of rental, (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the Rapid Amortization Deduction (as hereinafter defined) available to non-railroad lessors of railroad equipment which was lost, not claimed, not available for claim, disallowed or recaptured in respect of any Unit as a result of the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default. Notwithstanding anything to the contrary contained in this clause (b), it is understood and agreed that the Lessee shall receive a credit in respect of the amounts payable pursuant to sub-clause (i) of this clause (b) equal to any net proceeds received by the Lessor upon the sale or the releasing of the Units.

Anything in this § 9 to the contrary notwithstanding, any default in the observance or performance of any covenant, condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance

with respect to the Lessor of, all or any portion of the amortization deduction with respect to any Unit provided for in Section 184 of the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Rapid Amortization Deduction), available to non-railroad lessors of railroad equipment, shall be, for all purposes of this Lease, deemed to be cured if the Lessee shall, on or before the next rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance of the Rapid Amortization Deduction in respect of such Unit, agree to pay to the Lessor the revised rental rate in respect of such Unit determined as provided in the second paragraph of § 15 of this Lease.

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

The 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.

§ 10. *Return of Units Upon Default.* If this Lease shall terminate pursuant to § 9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. For the pur-

receive payment and receipt for any and all such claims on behalf of the Lessor, and the Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence the Lessee's authority and/or to vest in the Lessee such proceeds to the extent of the Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which the Lessee is entitled to proceeds or subrogation as aforesaid, the Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of the Lessee to such proceeds or to such subrogation.

§ 17. *Additional Covenants and Guaranty of the Lessee.* As an inducement to the Vendor to enter into the assignment of the Conditional Sale Agreement and as an inducement to the Lessor to enter into this Lease, the Lessee unconditionally guarantees to the Vendor, and covenants with the Lessor to guarantee unconditionally to the Vendor, the due and punctual performance of all obligations of the Lessor and the due and punctual payment of any and all sums payable by the Lessor under the Conditional Sale Agreement including, but not limited to, that portion of the Purchase Price of the Equipment (as defined in the Conditional Sale Agreement) payable pursuant to subparagraph (b) of the third paragraph of Article 3 thereof (except for the obligations of the Lessor to make payment of the sums payable by the Lessor pursuant to (i) subparagraph (a) of the third paragraph of Article 3 and (ii) Articles 20 and 21, thereof) when due, whether at stated maturity or by declaration or otherwise, and in case any such payments or obligations are not so made or performed, the Lessee agrees punctually to pay or perform the same, irrespective of any enforcement against the Lessor of any of the rights of the Vendor under the Conditional

Sale Agreement; *provided, however*, that there shall be no obligation upon the Lessee to make the payments or perform the obligations aforementioned in this § 17 while or for so long as the Lessee shall not be in default under this Lease. The Lessee hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of this Lease or the Conditional Sale Agreement or any other conduct of the Lessor, the Vendor and/or the Lessee which might otherwise constitute a legal or equitable discharge of a surety or guarantor, and irrespective of the last paragraph of Article 3 of the Conditional Sale Agreement or any other circumstances which might limit the recourse of the Vendor to the Lessor or of the Lessor or the Vendor to the Lessee. The Lessee hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver by the Lessor or the Vendor of any of their respective rights hereunder and no action by the Lessor or the Vendor to enforce any of their respective rights or failure to take, or delay in taking, any such action shall affect the obligations of the Lessee hereunder or under the Conditional Sale Agreement.

It is understood and agreed between the Lessor and the Lessee that any and all sums paid by the Lessee pursuant to the guaranteed obligations aforementioned in this § 17 shall be thereupon deemed to have been received and paid in reduction or satisfaction, to the extent thereof, of any amount then due or payable by the Lessee to the Lessor under this Lease.

Subject to the foregoing, in the event that the Lessee shall make any payments to the Vendor under the Conditional Sale Agreement on account of its guaranty hereunder, the Lessee hereby covenants and agrees that it shall

not acquire any rights, by subrogation or otherwise, against the Lessor or with respect to any of the Units by reason of such payments, all such rights being hereby irrevocably released, discharged and waived by the Lessee; *provided, however*, that after the payment by the Lessee to the Vendor under the Conditional Sale Agreement of all sums payable by the Lessor under the Conditional Sale Agreement, the Lessee shall, by subrogation, be entitled to the rights of the Vendor under the Conditional Sale Agreement against the Lessor by reason of any such payment made by it pursuant to this § 17, to the extent, but only to the extent, that the Lessor had received "income and proceeds from the Equipment" (as defined in Article 3 of the Conditional Sale Agreement) and has not applied such income and proceeds to the payment, in accordance with the Conditional Sale Agreement, of sums payable by the Lessor to the Vendor under the Conditional Sale Agreement.

§ 18. *Recording; Expenses.* Prior to the delivery and acceptance of any of the Units, the Lessor will, at the expense of the Lessor, cause this Lease and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and to be duly deposited in the office of the Registrar General of Canada; and the Lessor will, at the expense of the Lessor, cause the required notice of such deposit forthwith thereafter to be published in *The Canada Gazette* in accordance with Section 86 of the Railway Act of Canada (1970-RSC).

The Lessee will, from time to time and at its expense, do and perform any act and will execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to the satisfaction of the Lessor and its

counsel, of the Vendor's and the Lessor's respective interests hereunder in the Units, or for the purpose of carrying out the intention of this Lease and any assignment hereof. The Lessee will promptly furnish to the Vendor and the Lessor evidence of such execution, acknowledgement and delivery.

The Lessor will pay the reasonable costs and expenses involved in the preparation and printing of this Lease. The Lessor and the Lessee will each, respectively, bear the fees and disbursements of any counsel which it may respectively retain.

§ 19. *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 also an amount equal to 9% per annum of the amount of the overdue rentals for the period of time during which they are overdue.

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

if to the Lessor, P. O. Box 2097 Terminal Annex,
Los Angeles, California 90051, *attention of* Leasing
Division;

if to the Lessee, 131 West Lafayette Boulevard,
Detroit, Michigan 48226, *attention of* the Secretary;

and at P. O. Box 8100, Montreal 101, Quebec,
Canada, *attention of* the Treasurer;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

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

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the parties hereto.

§ 22. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

Although this Lease is dated as of November 15, 1971, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

§ 23. *Law Governing.* This Lease shall be construed in accordance with the laws of California.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly

authorized officers and their respective corporate seals to be hereunto affixed and duly attested, as of the date first above written.

SECURITY PACIFIC NATIONAL BANK,

by *Charles D. T. Lane*

[CORPORATE SEAL]

Vice President

Attest:

M. L. Marsh
Assistant Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by *J. J. Woodley*

[CORPORATE SEAL]

Vice President

Attest:

Robert H. Hovey
~~Assistant~~ *Secretary*

STATE OF CALIFORNIA }
CITY AND COUNTY OF LOS ANGELES } ss.:



On this 7 day of December, 1971, before me personally appeared *Charles D. Pearce*, to me personally known, who, being by me duly sworn, says that he is a Vice President of SECURITY PACIFIC NATIONAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Marguerite Curry
Notary Public

[NOTARIAL SEAL]

My Commission expires

State of Mich.
~~PROVINCE OF QUEBEC~~ } ss.:
~~CITY OF MONTREAL~~
County of Wayne

On this ~~13th~~ day of December, 1971, before me personally appeared *D D Wooden*, to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jaqueline Isabelle Pearce
Notary Public

[NOTARIAL SEAL]

My Commission is for life.

SCHEDULE A

| <u>Type and Specifications</u> | <u>Quantity</u> | <u>Road Numbers (inclusive)</u> | <u>Unit Base Price</u> | <u>Total Base Price</u> |
|--|-----------------|-------------------------------------|----------------------------|-----------------------------|
| 2,000 h.p. GP-38-AC Diesel Locomotives Manufacturer's Proposal 70K-33 dated November 13, 1970, Specification 8081 dated January 1, 1971, as amended by 8081-3 dated January 1, 1971 | 12 | 5800- 5811 | \$225,000 | \$2,700,000 |

C. upon the due deposit of this Lease, any assignment of this Lease to the Vendor, the Conditional Sale Agreement and the Agreement and Assignment in the office of the Registrar General of Canada and upon the giving of notice of such deposit in *The Canada Gazette* in accordance with Section 86 of the Railway Act of Canada (1970-RSC), no other act, filing, recording or deposit (or giving of notice) in respect of this Lease is necessary in order to protect the interests hereunder of the Lessor in and to the Units, in the Dominion of Canada or any Province or Territory thereof;

D. no approval is required of any governmental ministry or Agency or public regulatory body with respect to the entering into or performance of the Guaranty Agreement by the Guarantor, or if any such approval is required, it has been duly obtained; and

E. the entering into and performance of the Guaranty Agreement will not result in any breach of, or constitute a default under any indenture, mortgage, deed of trust or other agreement or instrument to which the Guarantor is a party or by which it may be bound.

On each Closing Date, the Lessor will deliver to the Vendor, the Lessee and the Guarantor counterparts, addressed to the Vendor, the Lessee and the Guarantor, in scope and substance satisfactory to the Vendor, the Lessee and the Guarantor and their respective counsel:

(i) of the written opinion of Messrs. Sheppard, Mullin, Richter & Hampton, counsel for the Lessor, to the effect that:

A. the Lessor is a corporation legally incorporated and validly existing, in good standing, under

the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into the Conditional Sale Agreement, this Lease and any assignment thereof; and

B. the Conditional Sale Agreement, this Lease and any assignment hereof to the Vendor have been duly authorized, executed and delivered by the Lessor and constitute legal and valid agreements binding upon the Lessor and enforceable in accordance with their terms; and

(ii) of the written opinion of counsel for the Manufacturer to the effect that at the time of delivery thereof to the Lessor under the Conditional Sale Agreement, each Unit was free of all claims, liens, security interests and other encumbrances except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under this Lease.

§ 15. *Federal Income Taxes.* The Lessor, as the owner of each Unit, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter referred to as the Code), to an owner of property, including (without limitation) an allowance for the Rapid Amortization Deduction (as defined in § 9 of this Lease) available to non-railroad lessors of railroad equipment.

If (other than for the reasons set forth below) the Lessor shall lose, or shall not have or shall lose the right to claim, or if (other than for the reasons set forth below) there shall be disallowed with respect to the Lessor, all or any portion of the Rapid Amortization Deduction with respect to any Unit, the rental rate applicable to such Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the

Lessee by the Lessor that such Rapid Amortization Deduction has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment on the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of the Rapid Amortization Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the loss of all or any portion of the Rapid Amortization Deduction; *provided, however*, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor, all or any portion of the Rapid Amortization Deduction with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under § 6 hereof;

(ii) a voluntary transfer by the Lessor (other than by the assignment of this Lease to the Vendor) of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the amendment either of the Conditional Sale Agreement or of the assignment of this Lease to the Vendor without the prior written consent of the Lessee;

(iv) the failure of the Lessor to claim the Rapid Amortization Deduction in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming the Rapid Amortization Deduction; or

(v) the failure of the Lessor to have sufficient income to benefit from the Rapid Amortization Deduction.

The Lessor agrees that if, in the opinion of its independent tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of the Rapid Amortization Deduction on any Unit, exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if the final determination shall be adverse to the Lessor, the Lessee shall pay to Lessor interest on the amount of the tax paid attributable to such Rapid Amortization Deduction disallowed, computed at the rate of 8% per annum from the date of payment of such tax to the date the Lessee shall reimburse the Lessor for such tax in accordance with the provisions of this § 15. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 15 shall survive the expiration or other termination of this Lease.

On or before the first Closing Date occurring under the Conditional Sale Agreement, the Lessor, shall have received

a written opinion of Messrs. Sheppard, Mullin, Richter & Hampton addressed to the Lessor to the effect that for federal income tax purposes:

A. the Lessor will be considered the owner of the Units;

B. the Lessor will be entitled at the election of the Lessor to Rapid Amortization Deductions with respect to such Units (provided that such Units retain their status as "qualified railroad rolling stock" within the meaning of Section 184(d) of the Code); and

C. the Lessor will be entitled to deductions under Section 163 of the Code with respect to interest on the Conditional Sale Indebtedness, as defined in the Conditional Sale Agreement.

§ 16. *Mileage Allowance; Subrogation.* Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other moneys payable by reason of the use of the Units, and any such mileage allowances or other moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, including settlements pursuant to the rules of the Association of American Railroads, up to an amount equal to the Casualty Value of any Unit which shall have suffered a Casualty Occurrence, paid by the Lessee to the Lessor or the actual expense of repair of a Unit not suffering a Casualty Occurrence paid by the Lessee, as set forth in a certificate of the Treasurer or Chief Accounting Officer of the Lessee, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement of,

receive payment and receipt for any and all such claims on behalf of the Lessor, and the Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence the Lessee's authority and/or to vest in the Lessee such proceeds to the extent of the Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which the Lessee is entitled to proceeds or subrogation as aforesaid, the Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of the Lessee to such proceeds or to such subrogation.

§ 17. *Additional Covenants and Guaranty of the Lessee.* As an inducement to the Vendor to enter into the assignment of the Conditional Sale Agreement and as an inducement to the Lessor to enter into this Lease, the Lessee unconditionally guarantees to the Vendor, and covenants with the Lessor to guarantee unconditionally to the Vendor, the due and punctual performance of all obligations of the Lessor and the due and punctual payment of any and all sums payable by the Lessor under the Conditional Sale Agreement including, but not limited to, that portion of the Purchase Price of the Equipment (as defined in the Conditional Sale Agreement) payable pursuant to subparagraph (b) of the third paragraph of Article 3 thereof (except for the obligations of the Lessor to make payment of the sums payable by the Lessor pursuant to (i) subparagraph (a) of the third paragraph of Article 3 and (ii) Articles 20 and 21, thereof) when due, whether at stated maturity or by declaration or otherwise, and in case any such payments or obligations are not so made or performed, the Lessee agrees punctually to pay or perform the same, irrespective of any enforcement against the Lessor of any of the rights of the Vendor under the Conditional

Sale Agreement; *provided, however*, that there shall be no obligation upon the Lessee to make the payments or perform the obligations aforementioned in this § 17 while or for so long as the Lessee shall not be in default under this Lease. The Lessee hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of this Lease or the Conditional Sale Agreement or any other conduct of the Lessor, the Vendor and/or the Lessee which might otherwise constitute a legal or equitable discharge of a surety or guarantor, and irrespective of the last paragraph of Article 3 of the Conditional Sale Agreement or any other circumstances which might limit the recourse of the Vendor to the Lessor or of the Lessor or the Vendor to the Lessee. The Lessee hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver by the Lessor or the Vendor of any of their respective rights hereunder and no action by the Lessor or the Vendor to enforce any of their respective rights or failure to take, or delay in taking, any such action shall affect the obligations of the Lessee hereunder or under the Conditional Sale Agreement.

It is understood and agreed between the Lessor and the Lessee that any and all sums paid by the Lessee pursuant to the guaranteed obligations aforementioned in this § 17 shall be thereupon deemed to have been received and paid in reduction or satisfaction, to the extent thereof, of any amount then due or payable by the Lessee to the Lessor under this Lease.

Subject to the foregoing, in the event that the Lessee shall make any payments to the Vendor under the Conditional Sale Agreement on account of its guaranty hereunder, the Lessee hereby covenants and agrees that it shall

not acquire any rights, by subrogation or otherwise, against the Lessor or with respect to any of the Units by reason of such payments, all such rights being hereby irrevocably released, discharged and waived by the Lessee; *provided, however*, that after the payment by the Lessee to the Vendor under the Conditional Sale Agreement of all sums payable by the Lessor under the Conditional Sale Agreement, the Lessee shall, by subrogation, be entitled to the rights of the Vendor under the Conditional Sale Agreement against the Lessor by reason of any such payment made by it pursuant to this § 17, to the extent, but only to the extent, that the Lessor had received "income and proceeds from the Equipment" (as defined in Article 3 of the Conditional Sale Agreement) and has not applied such income and proceeds to the payment, in accordance with the Conditional Sale Agreement, of sums payable by the Lessor to the Vendor under the Conditional Sale Agreement.

§ 18. *Recording; Expenses.* Prior to the delivery and acceptance of any of the Units, the Lessor will, at the expense of the Lessor, cause this Lease and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and to be duly deposited in the office of the Registrar General of Canada; and the Lessor will, at the expense of the Lessor, cause the required notice of such deposit forthwith thereafter to be published in *The Canada Gazette* in accordance with Section 86 of the Railway Act of Canada (1970-RSC).

The Lessee will, from time to time and at its expense, do and perform any act and will execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to the satisfaction of the Lessor and its

counsel, of the Vendor's and the Lessor's respective interests hereunder in the Units, or for the purpose of carrying out the intention of this Lease and any assignment hereof. The Lessee will promptly furnish to the Vendor and the Lessor evidence of such execution, acknowledgement and delivery.

The Lessor will pay the reasonable costs and expenses involved in the preparation and printing of this Lease. The Lessor and the Lessee will each, respectively, bear the fees and disbursements of any counsel which it may respectively retain.

§ 19. *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 also an amount equal to 9% per annum of the amount of the overdue rentals for the period of time during which they are overdue.

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

if to the Lessor, P. O. Box 2097 Terminal Annex,
Los Angeles, California 90051, *attention of* Leasing
Division;

if to the Lessee, 131 West Lafayette Boulevard,
Detroit, Michigan 48226, *attention of* the Secretary;

and at P. O. Box 8100, Montreal 101, Quebec,
Canada, *attention of* the Treasurer;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

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

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the parties hereto.

§ 22. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

Although this Lease is dated as of November 15, 1971, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

§ 23. *Law Governing.* This Lease shall be construed in accordance with the laws of California.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly

authorized officers and their respective corporate seals to be hereunto affixed and duly attested, as of the date first above written.

SECURITY PACIFIC NATIONAL BANK,

by *Charles D. T. Lane*

[CORPORATE SEAL]

Vice President

Attest:

M. L. Marsh
Assistant Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by *J. J. Woodley*

[CORPORATE SEAL]

Vice President

Attest:

Robert H. Hovey
~~Assistant~~ *Secretary*

STATE OF CALIFORNIA }
CITY AND COUNTY OF LOS ANGELES } ss.:



On this 7 day of December, 1971, before me personally appeared *Charles D. Pearce*, to me personally known, who, being by me duly sworn, says that he is a Vice President of SECURITY PACIFIC NATIONAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Marguerite Curry
Notary Public

[NOTARIAL SEAL]

My Commission expires

State of Mich.
~~PROVINCE OF QUEBEC~~ } ss.:
~~CITY OF MONTREAL~~
County of Wayne

On this ~~13th~~ day of December, 1971, before me personally appeared *D. D. Wooden*, to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jaqueline Isabelle Pearce
Notary Public

[NOTARIAL SEAL]

My Commission is for life.

SCHEDULE A

| <u>Type and Specifications</u> | <u>Quantity</u> | <u>Road Numbers (inclusive)</u> | <u>Unit Base Price</u> | <u>Total Base Price</u> |
|--|-----------------|-------------------------------------|----------------------------|-----------------------------|
| 2,000 h.p. GP-38-AC Diesel Locomotives Manufacturer's Proposal 70K-33 dated November 13, 1970, Specification 8081 dated January 1, 1971, as amended by 8081-3 dated January 1, 1971 | 12 | 5800- 5811 | \$225,000 | \$2,700,000 |