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INTERSTATE COMMERCE COMMISSION

LEASE OF EQUIPMENT

between

GUARANTY TRUST COMPANY OF CANADA
as trustee under Equipment Loan Trust
Declaration dated as of December 31, 1971

(Lessor)

and

CANADIAN NATIONAL RAILWAY COMPANY

(Lessee)

Dated as of December 31, 1971

SHIBLEY, RIGHTON & McCUTCHEON,
Barristers and Solicitors,
P. O. Box 32 - 401 Bay Street,
Toronto 103, Ontario.

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LEASE dated as of the 31st day of December, 1971.

B E T W E E N :

GUARANTY TRUST COMPANY OF CANADA,
a trust company duly incorporated
under the laws of Canada, as trustee
under Equipment Loan Trust Declaration
dated as of December 31, 1971,

(hereinafter called the "Lessor")

OF THE FIRST PART

- and -

CANADIAN NATIONAL RAILWAY COMPANY,
a corporation duly incorporated
under the laws of Canada,

(hereinafter called the "Lessee")

OF THE SECOND PART

WHEREAS pursuant to the provisions of an Agreement made as of the 31st day of December, 1971 between National Steel Car Corporation Limited (hereinafter called "the Manufacturer") and the Lessor and the Lessee (which Agreement is hereinafter called "the Manufacturing Agreement"), the Manufacturer agreed to construct and sell and the Lessee agreed to purchase certain railroad equipment more particularly described in Schedule "A" annexed hereto (hereinafter collectively called "the Equipment"), upon the terms and conditions therein contained;

AND WHEREAS pursuant to the provisions of the Manufacturing Agreement, title to each unit of Equipment (hereinafter collectively called "Units" and individually called "Unit") is to be vested in the Lessor, as the trustee, upon delivery thereof and is to be held and retained by the Lessor as trustee upon the trusts set forth in a certain Equipment Loan Trust Declaration made on the 31st day of December, 1971 made between the Lessor as trustee in favour of the holder of the Loan Certificate more particularly defined in the Trust Declaration;

AND WHEREAS the Lessee has agreed to lease from the Lessor all of the Units delivered and accepted under the Manu-

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facturing Agreement during the period from and after the date hereof up to and including the 25th day of March , 1972 (which later date is hereinafter called "the Final Delivery Date") at the rentals and for the terms and upon the conditions hereinafter provided;

AND WHEREAS the Lessor intends to sell the Units to the Permitted Assignee referred to in paragraph 11 under an agreement (hereinafter called the "Conditional Sale Agreement");

NOW THEREFORE THIS AGREEMENT WITNESSETH as follows:

1. Leasing. In consideration of the premises and of the rentals to be paid and the covenants hereinafter contained to be kept and performed by the Lessee, the Lessor hereby leases to the Lessee such Units of the Equipment as may from time to time be delivered to and accepted by the Lessee or its authorized inspectors or other representatives under the provisions of the Manufacturing Agreement from and after the date hereof up to and including the Final Delivery Date, such acceptance to be evidenced by Certificates (hereinafter collectively called "Schedules" and individually called "Schedule") to be substantially in the form of Schedule "B" annexed hereto and upon execution thereof as aforesaid shall be attached to and form part hereof, and such Unit or Units referred to therein shall thereupon become subject to and governed by all the provisions hereof. Any Unit or Units not accepted prior to ^{MARCH 25, 1972} ~~April 30, 1972~~ shall be excluded from this Lease.

2. Rentals. (a) (i) The Lessee agrees to pay to the Lessor on the Business Day (as hereinafter defined) next preceding the 1st day of July, 1972 in lawful money of Canada as rental for each Unit subject to this Lease, an amount equal to .02722% of the Purchase Price of each Unit (as such term is defined in paragraph 3 of the Manufacturing Agreement) for each calendar day during the period from and including the date on which such Unit is settled and paid for under the Manufacturing Agreement up to and including the Business Day (as hereinafter defined) next preceding the 1st day of July, 1972.

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(ii) The Lessee agrees to pay to the Lessor thereafter in lawful money of Canada as rental for each Unit subject to this Lease, thirty (30) equal consecutive semi-annual payments payable on the Business Day (as hereinafter defined) next preceding the 1st day of January and July of each year commencing the 1st day of January, 1973 up to and including the 1st day of July, 1987 in an amount equal to 4.8991% of the Purchase Price of each Unit as such term is defined in paragraph 3 of the Manufacturing Agreement; provided however, that notwithstanding anything herein contained and for the purpose of determining the amount of such rental, the Purchase Price of each such Unit shall in no event be less than an amount equal to the Unit Cost of each such Unit (as stipulated in Schedule "A" annexed hereto) less 2.5% thereof. "Business Day" shall mean a calendar day excluding Saturdays, Sundays and holidays or other days on which banks are authorized by law to close in Toronto, Ontario.

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(b) All rental and other payments provided for in this Lease to be made to the Lessor shall be made to the Lessor in immediately available funds in Toronto, Ontario by depositing such funds to the account of the Lessor at the offices of the Lessor, 366 Bay Street, Toronto, Ontario or at such other place as the Lessor shall specify in writing.

(c) This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or set-off against rent, including, but not limited to, abatements, reductions or set-offs 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 otherwise or against the Manufacturer under the Manufacturing Agreement; 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 whatever cause, 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 public or private person or entity, the breach by the Lessor of the representations and warranties of the Lessor contained in sub-paragraph (b) of paragraph 8 hereof, or by reason of any failure by the Lessor to perform any of its obligations herein contained, 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. The Lessee shall have a right of action against the Lessor for any such breach of such representations and warranties or any such failure to perform such obligations, but without any right of set-off of such rents and other amounts payable by the Lessee hereunder.

3. Term of Lease. The term of this Lease as to any Unit or Units shall commence on the date of acceptance thereof by the Lessee pursuant to paragraph 1 hereof and, subject to the provisions of paragraphs 1, 6, 9, 16, 21 and 22 hereof, shall terminate on the 1st day of July, 1987 (which period is hereinafter referred to in paragraph 21 hereof as "the Original Term"). If such term be extended the word "term" or "period" as used in this Lease shall be deemed to refer to such extended term and all provisions hereof shall apply during and until the expiration of such extended term except as may be otherwise specifically provided herein or in any subsequent written agreement of the parties hereto.

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 (and not otherwise) are subordinate, junior in rank and subject to the rights of the Trustee under the Trust Declaration.

4. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identifying number as 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 three-eighths inch in height, the following words: "OWNED AND LEASED BY GUARANTY TRUST COMPANY OF CANADA, 366 BAY STREET, TORONTO, CANADA, AS TRUSTEE UNDER THE TERMS OF AN EQUIPMENT LOAN TRUST DECLARATION", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto

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as from time to time may be required by law in order to protect the title and the rights of the Lessor under this Lease and the Trust Declaration. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change or permit the identifying number of any Unit to be changed except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Units to be lettered with the names, initials or other insignia customarily used by the Lessee or any permitted sublessee on railroad equipment used by it of the same or similar type for convenience of identification of their right to use the Units.

5. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor and the Permitted Assignee for collection or other charges and will be free of expense to the Lessor and the Permitted Assignee with respect to the amount of any local, provincial or federal taxes (other than income taxes payable by the Lessor or the Permitted Assignee in consequence of the receipt of payments provided herein), assessments or license fees (and any charges, fines or penalties of any kind in connection therewith) (hereinafter called "impositions") hereafter levied or imposed upon or in connection with or measured by, this Lease, the Manufacturing Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under



the terms hereof or the Manufacturing Agreement, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor or the Permitted Assignee solely by reason of its acquisition and/or ownership thereof and will keep at all times all and every part of such Unit free and clear of all such impositions which might in any way affect the title of the Lessor or the Permitted Assignee or result in a lien or security interest upon any such Unit and will supply the Lessor with a receipt or other evidence of such payment satisfactory to the Lessor; provided, however, that the Lessee shall be under no obligation to pay any such impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the non-payment thereof does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor hereunder or under the Trust Declaration and the Lessee shall have furnished the Lessor with an opinion of counsel to such effect. If any such impositions shall have been charged or levied against the Lessor, or the Permitted Assignee, the Lessee shall reimburse the Lessor or the Permitted Assignee, as the case may be, on presentation of invoice therefor; provided, however, that the Lessee shall not be obligated to reimburse the Lessor or the Permitted Assignee for any imposition so paid unless the Lessor or the Permitted Assignee shall have been in the opinion of their respective counsel legally liable with respect thereto, or unless the Lessee shall have approved the payment thereof.

In the event any reports with respect to impositions are required to be made on the basis of individual Units, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the



Permitted Assignee in such Units, if such is necessary or appropriate, or will notify the Lessor of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any impositions, pursuant to this paragraph 5, such liability shall continue, notwithstanding the termination of this Lease, until all such impositions are paid or reimbursed by the Lessee.

6. Payment for Casualty Occurrences. In the event that any Unit shall be or become worn out, lost, stolen, completely destroyed or damaged beyond economic repair, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (any such occurrence being hereinafter called a "Casualty Occurrence") during the term of this Lease, or until such Unit shall have been returned to the Lessor in the manner provided in paragraph 12 hereof, the Lessee shall, as soon as reasonably possible after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor with respect thereto and shall, in any event, within the then current taxation year of the Permitted Assignee either (i) replace such Unit with another unit of railway equipment of the same or similar type and value or (ii) with the prior written consent of the Permitted Assignee and of the holders of not less than 66-2/3% in principal amount of the then issued and outstanding Loan Certificates hereinbefore referred to, replace such Unit with other railway equipment of like value accepted to the Permitted Assignee and such holders and thereupon such other unit of railway equipment shall be and become part of the Equipment hereunder and be subject to all the terms and provisions hereof and in such event no rental payable hereunder shall abate; or (iii) prior to the expiry of such period, pay to the Lessor an amount equal to the accrued unpaid rental for such Unit to the date of such payment plus a sum

equal to the Stipulated Loss Value (as hereinafter defined) of such Unit as of the date of such payment. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment and the term of this Lease as to such Unit shall terminate. The Lessor shall, upon request of the Lessee, after payment by the Lessee of a sum equal to the Stipulated Loss Value of any Unit, deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Unit or for any Unit abandoned pursuant to paragraph 12 hereof, executed by the Lessor and the Permitted Assignee and such other or others as may be required in order to transfer to the Lessee (or its nominee) such title to such Unit as is derived by the Lessor from the Manufacturer, free and clear of all liens, security interests and other encumbrances arising through the Lessor or the Permitted Assignee.

The Stipulated Loss Value of each Unit during each six month period during the Original Term of the Lease and during the periods of the First Renewal Option and the Second Renewal Option shall be that percentage of the Unit cost thereof stipulated in Schedule "A" hereto, that is set forth in the following schedule:

STIPULATED LOSS VALUES DURING ORIGINAL TERM

<u>Year</u>	<u>Factor</u>	
	<u>January 1 to June 30</u>	<u>July 1 to December 31</u>
1971	-----	109.65
1972	109.65	111.60
1973	113.37	114.12
1974	114.70	114.42



<u>Year</u>	<u>Factor</u>	
	<u>January 1 to June 30</u>	<u>July 1 to December 31</u>
1975	114.00	112.87
1976	111.58	109.70
1977	107.67	105.14
1978	102.45	99.32
1979	96.06	92.40
1980	88.59	84.43
1981	80.11	75.49
1982	70.70	65.60
1983	60.35	54.81
1984	49.10	43.10
1985	36.92	30.49
1986	23.83	16.92
1987	12.00	12.00

STIPULATED LOSS VALUE DURING PERIODS OF FIRST
RENEWAL OPTION AND SECOND RENEWAL OPTION

Factor

12.00 or fair market value as calculated in accordance with paragraph 21 hereof, whichever is the lesser.

Except as hereinabove in this paragraph 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. The Lessor represents that the taxation year of the Permitted Assignee ends on December 31 and will use its best efforts to inform itself of any change in such taxation year and will forthwith notify the Lessee of any such change of which it becomes aware.

7. Annual Reports. On or before April 1 in each year, commencing with the year 1972, the Lessee will furnish to the Lessor in such number of counterparts or copies as may reason-

ably be requested, an accurate statement signed by its authorized representative (i) showing, as of the preceding December 31, the amount, description and numbers of all Units that may have suffered a Casualty Occurrence, whether by accident or otherwise, during the preceding calendar year (or since the date of this Lease in the case of the first such statement), and such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request and (ii) stating that, in the case of all Units repaired or repainted during the period covered by such statement, the markings required by paragraph 4 hereof and paragraph 1 of the Manufacturing Agreement have been preserved or replaced. The Lessor shall have the right, by its agents, but shall be under no obligation, to inspect the Units and the records of the Lessee with respect thereto at any reasonable time during the continuance of this Lease.

8. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. (a) Neither the Lessor nor the Permitted Assignee makes any warranty or representation, either express or implied, as to the design, compliance with specifications or condition of, or as to the quality of the material, equipment or workmanship in, or as to the suitability, adequacy, operation, use or performance of, the Units delivered to the Lessee hereunder, and neither the Lessor nor the Permitted Assignee makes any warranty of merchantability or fitness of the Units for any particular purpose, it being agreed that all such risks, as between the Lessor or the Permitted Assignee 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, whatever claims and rights the Lessor may have against the Manufacturer or the manufacturer of the components of the



Units. Neither the Lessor nor the Permitted Assignee shall have any responsibility or liability under this Lease 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 anticipatory profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's acceptance of delivery of the Units shall be conclusive evidence as between the Lessee and the Lessor and the Permitted Assignee that all Units described in the Schedule relating thereto 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 or the Permitted Assignee based on any of the foregoing matters.

(b) 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

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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.

(c) 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 Lessor under the Trust Declaration but the Lessor shall not 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 the Lessee's possession and use in accordance with the terms of this Lease of the Units or the title to the Units which may be transferred or conveyed to the Lessee under the provisions of paragraphs 6 and 21 of this Lease and that any title so conveyed shall then be free of any lien, claim, security interest or other encumbrance by or in favour of any person claiming by, through or under the Lessor.

(d) The Lessee agrees, for the benefit of the Lessor and the Permitted Assignee, to comply in all respects with all laws of the jurisdictions in which operations involving any Unit subject to the Lease may extend, with the Interchange Rules of the Association of American Railroads, if applicable, and with all lawful rules of any legislative, executive, administrative or judicial body or officer exercising any power or jurisdiction over any such Unit, to the extent such laws and rules affect the operations or use of such Unit; and the Lessee shall and does hereby indemnify the Lessor and the Permitted Assignee and agrees to hold the Lessor and the



Permitted Assignee harmless from and against any and all liability that may arise from any infringement or violation of any such laws or rules by the Lessee, or its employees, or any other person. In the event that such laws or rules require the 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, at its own expense, to make such alterations, changes, additions and replacements and to use, maintain and operate such Unit in full compliance with such laws, regulations, requirements and rules so long as such Unit 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, adversely affect the property or rights of the Lessor or the Permitted Assignee hereunder or under the Trust Declaration.

(e) 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.

(f) 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, stakes installed on such Unit) and, without cost or expense to the Lessor, there shall be immediately vested in the Lessor the same interest in such accessions as the interests of the Lessor in such Unit. The Lessee may make alteration or modifications in any Unit so long as it does not affect the value of such Unit adversely.

(g) The Lessee agrees to indemnify and save harmless the Lessor and the Permitted Assignee against any charge or claim made against the Lessor or the Permitted Assignee and

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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 Permitted Assignee may incur in any manner by reason of entering into or performing this Lease or the Manufacturing Agreement or the ownership of, or which may arise in any manner out of or as the result of the ordering, acquisition, purchase, use, operation, condition, delivery, rejection, storage or return of, any Unit while subject to this Lease or until no longer in the possession of or stored by the Lessee, whichever is later, and to indemnify and save harmless the Lessor and the Permitted Assignee 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 or death to any person; provided, however, that the Lessee shall not be required to indemnify the Lessor or the Permitted Assignee under this paragraph for negligence on the part of the Lessor or the Permitted Assignee. 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 shall have been returned to the Lessor pursuant to paragraphs 10 or 12 hereof or after this Lease with respect to such Unit has otherwise terminated, provided that such charge, claim, expense, loss or liability is attributable to an event occurring after such Unit was so returned or this Lease with respect to such Unit terminated, and provided, further, 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.

(h) 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, and furnish a copy to, the Lessor and the Permitted Assignee) any and all reports known by the Lessee to be required to be filed by the Lessor or the Permitted Assignee, or requested by the Lessor or the Permitted Assignee to be filed, with any federal, provincial or other regulatory authority by reason of the interest of the Lessor in the Units or the leasing of the Units 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 paragraph 2 hereof and such default shall continue for ten (10) days; or

(b) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or any unauthorized sublease 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 and such default shall continue (and the Lessee shall not make effective provisions for curing such default) for thirty (30) days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied; or

(d) any proceedings shall be commenced by or against the Lessee by way of a scheme of arrangement under the Railway Act, R.S.C. 1970, c. R-2 or for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganization, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder), 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 effectiveness shall continue), and all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or judgment, by a trustee or trustees or receiver or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within thirty (30) days after such appointment, if any, or sixty (60) days after such proceedings shall have been commenced, whichever shall be earlier;

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

(i) 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

(ii) by notice in writing to the Lessee terminate this Lease, whereupon all right of the Lessee to the use of the Units shall absolutely cease and determine 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 the right to recover from the Lessee any and all amounts which under the terms of this Lease may then be 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 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), together with: (A) as liquidated damages for loss of the bargain and not as a penalty, a sum with respect to each Unit, which represents the excess of: 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 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 5% per annum discount compounded semi-annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (B) any damages and expenses, including reasonable legal 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 and (C) an amount which, after deduction of all taxes required to be paid by the Permitted Assignee in respect of the receipt thereof under the laws of Canada or any Province thereof, shall be equal to such sum as, in the reasonable opinion of the Permitted Assignee, will cause the Permitted Assignee's net return under this Lease to be equal to the net return that would have been available to the Permitted Assignee if it had been entitled to utilization of all or such portion of capital cost allowance deductions with respect to the Units computed in accordance with the provisions of the Income Tax Act of Canada and the Income Tax Regulations made thereunder most favourable to the Permitted Assignee, which was lost, not claimed, not available for claim or disallowed in respect of the termination of this Lease, the Lessor's or the Permitted Assignee's loss of the right to use such Unit, any action or inaction by the Lessor or the Permitted Assignee or the sale or other disposition of the Lessor's or the Permitted Assignee's interest in



such Unit after the occurrence of an Event of Default.

Notwithstanding anything to the contrary contained in this clause (ii), it is understood and agreed that the Lessee shall receive a credit in respect of the amounts payable pursuant to sub-clause (A) of this clause (ii) equal to any net proceeds received by the Lessor upon the sale or the re-leasing of the Units.

The remedies in this Lease provided in favour of the Lessor shall not be deemed exclusive but shall be cumulative, and shall be in addition to all other remedies in its favour 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 any 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 paragraph 9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

A. forthwith place such Units upon such storage tracks of the Lessee as the Lessor may reasonably designate,

B. permit the Lessor to store such Units on such tracks at the risk of the Lessee until the earlier of the date all such Units have been sold, leased or other-

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wise disposed of by the Lessor and the 270th day from the day the Lessee shall have placed the Units on such storage tracks, and

C. transport the same to any place on the tracks of the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor. The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a judgment or order 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 of any Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this paragraph 10, 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 at the time in possession of such Unit. In connection therewith the Lessee will supply the Lessor with such documents as the Lessor may reasonably request.

11. Assignment, Possession and Use. It is the intention of the parties hereto that the rentals and the sums due hereunder (other than payments under paragraph 6 hereof) shall, subsequent



to the execution and delivery hereof, be assigned by the Lessor subject, however, to the rights of the holders of the Loan Certificates under the Trust Declaration, to Traders Group Limited, being the Purchaser referred to in Article 8 of the Trust Declaration and being hereinafter referred to in this Lease as the "Permitted Assignee" and which assignment is hereinafter called the "Permitted Assignment". The consent of the Lessee to the Permitted Assignment shall not be required, however the Lessee shall be under no obligation to the Permitted Assignee except upon written notice of such assignment from either the Lessor or the Permitted Assignee in the manner provided for in paragraph 24 hereof. The Trustee shall be entitled contemporaneously with its conveyance to the Permitted Assignee under the provisions of Section 4.12 of the Trust Declaration of title to all the Units and substituted equipment provided by the Lessee in accordance with the provisions of paragraph 6 hereof, to absolutely assign and transfer to the Permitted Assignee all of the right, title and interest of the Lessor in and to the lease together with all rights, powers, privileges and other benefits of the Lessor hereunder.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its interest as Lessee under this Lease in the Units or any of them (except to the extent that the provisions of any mortgage now or hereafter created on the undertaking of the Lessee may subject the Lessee's leasehold interest to the lien thereof). In addition, the Lessee, at its own expense, will promptly cause to be duly discharged any lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against the Lessor not related to the ownership of the Units or to the extent



that the provisions of any mortgage now or hereafter created on the undertaking of the Lessee may subject the Lessee's leasehold interest to the lien thereof) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interests of the Lessor or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph hereof.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it or by any subsidiary or affiliated corporation of the Lessee, upon lines of railroad owned or operated by the Lessee or by such other corporation or upon lines of railroad over which the Lessee or such other corporation has trackage or other operating rights or over which railroad equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Lease and the Trust Declaration.

Nothing in this paragraph 11 shall be deemed to restrict the right of the Lessee (i) to assign or transfer its interest as Lessee under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of Canada (which shall have duly assumed the obligations of the Lessee hereunder) 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 all of the capital stock of such assignee or transferee shall be owned by the Canadian government; or (ii) to sublease any Unit to any subsidiary or affiliated corporations of the Lessee; provided, however, that the

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rights of such sublessee are made expressly subordinate to the rights and remedies of the Lessor under the Trust Declaration and the Lessor under this Lease.

The Lessor shall have the right to declare the lease provided for herein terminated in case of any unauthorized assignment or transfer of the Lessee's rights hereunder. Any successor to the Lessor as trustee under the Trust Declaration shall be substituted as Lessor hereunder without the execution or filing of any paper or any further act on the part of either party hereto, anything to the contrary notwithstanding, provided that written notice of such substitution shall be given reasonably promptly to the Lessee and the Lessee shall on written request execute and deliver all instruments in writing requisite to evidence and acknowledge such substitution.

12. Return of Units Upon Termination of Term. As soon as practicable on or after the termination of the term of this Lease as to any or all of the Units, save and except in the event of or resulting from a default in which event paragraph 10 shall apply, the Lessee will (unless the Units are taken or requisitioned by condemnation or otherwise, lost, stolen, completely destroyed or damaged beyond economic repair within the meaning of paragraph 6 hereof), at its own cost and expense, at the request of the Lessor, assemble such Units and deliver possession of such Units to the Lessor upon such storage tracks of the Lessee in Canada as the Lessor may reasonably designate and permit the Lessor to store such Unit on such tracks for a period not exceeding six (6) months and transport the same, at any time within such six-month period, to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than thirty (30) days' written notice to the Lessee; the movement and storage of the Units 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 represen-

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tative or representatives of any prospective purchaser of any Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a judgment or order against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If the Lessor shall elect to abandon any Unit which after the expiration of this Lease the Lessor and the Lessee shall have deemed to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. Each Unit returned to Lessor pursuant to this Section shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted and (ii) meet the standards then in effect under the interchange rules of the Association of American Railroads if applicable.

13. Opinions of Counsel. (i) On each Closing Date as defined in the Manufacturing Agreement the Lessee will deliver to the Lessor and the Permitted Assignee the written opinion of counsel for the Lessee, in such number of counterparts as may reasonably be requested, and addressed to the Lessor and to the Permitted Assignee in scope and substance satisfactory to them and to their respective counsel, to the effect that:



A. The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of Canada, with full corporate power to enter into the Manufacturing Agreement and this Lease;

B. The Manufacturing Agreement and this Lease have been duly authorized, executed and delivered by the Lessee and constitute valid, legal and binding agreements, enforceable in accordance with their terms;

C. Upon deposit of the Trust Declaration and this Lease in the office of the Registrar General of Canada and publication of notice of such deposit in the Canada Gazette in accordance with Section 86 of the Railway Act of Canada, no further act, filing, recording or deposit (or giving of notice) is required in order fully to protect in Canada or any Province or Territory thereof the rights of the Lessor under this Lease against any and all subsequent purchasers or mortgagees from the Lessee and/or from creditors of the Lessee;

D. No approval is required from any public regulatory body with respect to the entering into or performance of the Manufacturing Agreement by the Lessee and this Lease or all such approvals (which shall be specifically described) have been obtained; and

E. The entering into and performance of the Manufacturing Agreement and this Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the



Lessee is subject or any judgment, decree, franchise, order or permit applicable to the Lessee.

The Lessee also agrees to furnish to the Lessor a copy, certified by the Secretary or an Assistant Secretary or Deputy Secretary or other officer of the Lessee, of resolutions of the Board of Directors of the Lessee authorizing the Lessee to enter into this Lease and the Manufacturing Agreement.

(ii) On each Closing Date as defined in the Manufacturing Agreement the Lessor will deliver to the Lessee and to the Permitted Assignee the written opinion of counsel for the Lessor, addressed to the Lessee and to the Permitted Assignee to the effect that:

A. The Lessor is a corporation legally incorporated and validly existing, in good standing, under the laws of Canada, with full corporate power to enter into the Manufacturing Agreement, this Lease, the Permitted Assignment and the Conditional Sale Agreement;

B. The Manufacturing Agreement, this Lease, the Permitted Assignment and the Conditional Sale Agreement have been duly authorized, executed and delivered by the Lessor and constitute valid, legal and binding agreements, enforceable in accordance with their terms;

C. The entering into and performance of the Manufacturing Agreement, this Lease, the Permitted Assignment and the Conditional Sale Agreement will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessor is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the Lessor is subject or any judgment, decree, franchise, order or permit applicable to the Lessor.

The Lessor also agrees to furnish to the Lessee a copy, certified by the Secretary or an Assistant Secretary or other officer of the Lessor, of resolutions of the Board of Directors of the Lessor evidencing the due authorization



of the execution and delivery by the Lessor of the Lease and the Manufacturing Agreement.

(iii) On each Closing Date as defined in the Manufacturing Agreement there will be delivered by the Permitted Assignee to the Lessor and to the Lessee the written opinion of counsel for the Permitted Assignee addressed to the Lessor and to the Lessee to the effect that:

A. The Permitted Assignee is a corporation legally incorporated and validly existing in good standing under the laws of Canada, with full power to enter into the Conditional Sale Agreement and the Permitted Assignment.

B. The Conditional Sale Agreement and the Permitted Assignment have been duly authorized, executed and delivered by Traders and constitute valid, legal and binding agreements enforceable in accordance with their terms.

C. The entering into and performance of the Conditional Sale Agreement and the Permitted Assignment will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Permitted Assignee is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the Permitted Assignee is subject or any judgment, decree, franchise, order or permit applicable to the Permitted Assignee.

There shall also be delivered by the Permitted Assignee to the Lessor and to the Lessee a copy, certified by the Secretary or an Assistant Secretary or other officer of the Permitted Assignee, of the resolutions of the Board of Directors authorizing the Permitted Assignee to enter into the Conditional Sale Agreement and the Permitted Assignment.

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14. Recording; Expenses. Prior to the delivery and acceptance of any Unit, the Lessor will, at its own expense, cause the Trust Declaration and this Lease (a) to be deposited with the Registrar General of Canada and for notice of such deposit to be forthwith thereafter given in the Canada Gazette, pursuant to Section 86 of the Railway Act of Canada, and (b) to be filed and recorded with the Interstate Commerce Commission of the United States of America pursuant to Section 20c of the Interstate Commerce Act of the United States of America. The Lessor will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, re-record or redeposit whenever required) any and all further instruments required by law or by the Lessor, for the purpose of proper protection, to the satisfaction of the Lessor's interest in the Units, for the purpose of carrying out the intention of this Lease and the Trust Declaration.

The Lessor will pay the reasonable costs and expenses involved in the preparation and printing of this Lease and the fees and disbursements of any counsel which it may retain, unless such costs, expenses, fees and disbursements are paid by some other person. The Lessee will bear the fees and disbursements of any counsel which it may retain.

15. 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 9.8% per annum of the overdue rentals for the period of time during which they are overdue.

16. Termination. In the event that all of the Units shall have been excluded from this Lease as provided in paragraph 1 hereof, this Lease shall terminate and, except as otherwise expressly provided in this Lease, the rights and obligations hereunder of the parties hereto shall cease and determine as if this Lease had never been made.

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17. 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 Stipulated Loss 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.

18. Execution. Although this Lease is dated as of December 31, 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 acknowledgments hereto annexed.



19. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the Province of Ontario; provided, however, that the parties shall be entitled to all rights conferred by the applicable recording laws of Canada and of the Provinces or Territories thereof and such additional rights arising out of the filing, recording or depositing hereof or out of the marking on the Units as shall be conferred by the laws of the several jurisdictions in which this Lease shall be filed, recorded or deposited or in which any Unit may be located.

20. Security Deposit. The Lessee shall pay to the Lessor upon the execution hereof, an amount which shall be equal to 4.8991% of the Aggregate Cost of the Equipment as stipulated in Schedule "A" annexed hereto (which amount is hereinafter called the "Original Deposit") provided, however, that in the event that less than all of the Units shall have been subsequently delivered and accepted by the Lessee on or before the Final Delivery Date (which undelivered and unaccepted Units are hereinafter called the "Excluded Units") then the Lessor shall within the period of fifteen (15) days subsequent to the Final Delivery Date refund to the Lessee such portion of the Original Deposit paid by the Lessee to the Lessor upon the execution hereof which shall be equal to the difference between: (i) the Original Deposit and (ii) an amount equal to one (1) rental payment payable by the Lessee to the Lessor under the provisions of paragraph 2(a)(ii) hereof respecting the Units of Equipment which have become subject to and governed by the provisions of this Lease pursuant to the provisions of paragraph 1 hereof. In the event that the amount of one (1) rental payment payable by the Lessee to the Lessor under the provisions of paragraph 2(a)(ii) hereof (hereinafter called the "Actual Rent") shall be less than the amount of the Original Deposit, then the Lessor shall within the period of fifteen (15) days subsequent to the Final Delivery Date, refund to the Lessee such portion of the Original Deposit which shall be equal to the difference between:



(i) the Original Deposit, and (ii) the Actual Rent, provided however, that notwithstanding anything hereinbefore contained and for the purpose of determining the amount of any such refund, the Purchase Price of each of such Units (as defined in paragraph 3 of the Manufacturing Agreement) shall in no event be less than an amount equal to the Unit Cost of each such Unit (as stipulated in Schedule "A" annexed hereto). In the further event that the amount of the Actual Rent shall be greater than the amount of the Original Deposit, then the Lessee shall within fifteen (15) days subsequent to the Final Delivery Date pay such additional amount which shall be added to and form part of the Original Deposit as shall be required in order that the aggregate amount of the Original Deposit be equal to the amount of the Actual Rent. The portion of the Original Deposit remaining after deduction of the amount of any such refund therefrom is hereinafter called the "Remaining Deposit". The Original Deposit or the Remaining Deposit, as the case may be, shall be retained by the Lessor until the Lessee shall have fully satisfied all its obligations under this Lease and as security to be applied by and at the option of the Lessor to the payment and/or _____

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performance of any obligations of the Lessee hereunder. The Original Deposit or the Remaining Deposit, as the case may be, shall not excuse the performance at the time and in the manner prescribed herein of any obligations of the Lessee or prevent default thereof and any of the Original Deposit or the Remaining Deposit, as the case may be, not so applied will be returned to the Lessee after the termination of this Lease, provided, however, that the Lessee may by written notice to the Lessor prior to the due date of the last rental payment as more particularly provided in paragraph 2 hereof direct the Lessor to apply the Original Deposit or the Remaining Deposit, as the case may be, on account of such last rental payment.

21. Purchase Option; First Renewal Option. Provided this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may elect to purchase all but not less than all of the Units then subject to this Lease at the expiration date of the Original Term of this Lease or at the expiration date of the First Renewal Option Period (the Lessee having duly exercised the First Renewal Option) or at the expiration date of the Second Renewal Option Period (the Lessee having duly exercised the Second Renewal Option) for a purchase price equal to the average of the determinations by the three independent appraisers (hereinafter referred to as the "Fair Market Value") of such Units as of the expiration date of the Original Term or the expiration date of the First Renewal Option Period or the expiration date of the Second Renewal Option Period, as the case may be. Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. Such right to purchase shall be exercised by the Lessee by giving to the Lessor and Permitted Assignee written notice of its intention to exercise such right not less than seven (7) months prior to the expiration date of the Original Term, the First Renewal



Option Period or the Second Renewal Option Period, as the case may be. Fair Market Value of the Units shall be determined in accordance with the foregoing definition by each of three independent appraisers, one of whom shall be selected by the Permitted Assignee, the second by the Lessee and the third designated by the first two so selected. The appointment of all such appraisers shall be made not less than six months prior to the expiration date of the Original Term or of the First Renewal Option Period or of the Second Renewal Option Period, as the case may be

Each Appraiser shall be instructed to proceed to make such determination within a period of thirty (30) days following appointment, and shall promptly communicate such determination in writing to the Permitted Assignee and the Lessee. The determinations so made shall be conclusively binding upon the Lessor, the Permitted Assignee and the Lessee. The expenses and fee of the Appraisers shall be borne equally by the Lessee and the Permitted Assignee. Upon payment of the purchase price, the Lessor shall upon request of the Lessee execute and deliver to Lessee, or to the Lessee's assignee or nominee, a bill of sale (without warranties in form and substance as more particularly provided in paragraph 6 hereof) for such Unit.

In the event that the Lessee shall not elect to so purchase all of the Units then subject to the Lease at the end of the Original Term, then the Lessee shall have the further right (hereinafter called the "First Renewal Option") to extend the term of the Lease for a further period of five (5) years from and after expiration of the Original Term (hereinafter called the "First Renewal Option Period") as to any one or more of the Units as shall be specified by the Lessee which the Lessee shall not have elected to purchase in accordance with the provisions hereof, at a semi-annual lease rate equivalent to 5.0196% of the then fair market value thereof as determined above and based on the average of such three (3) independent appraisals relating thereto and otherwise upon the same terms and conditions contained in this Lease save that there shall be no further or

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other right to extend the term hereof except as more particularly provided in paragraph 22 hereof. Such right shall be exercised by the Lessee by giving to the Permitted Assignee written notice of its intention to exercise such right not less than 120 days prior to the expiration of the Original Term.

22. Second Renewal Option. Provided that the Lessee shall not have previously purchased all of the Units under the provisions of paragraph 21 hereof, and provided further that the Lessee shall have elected to exercise the First Renewal Option and shall have paid all sums then due and payable to the Permitted Assignee and be not then otherwise in default under this Lease, then the Lessee shall have the right (hereinafter called the "Second Renewal Option") upon the expiration of the First Renewal Option Period to further extend the term of this Lease for an additional period of five (5) years (hereinafter called the "Second Renewal Option Period") at a semi-annual lease rate equivalent to 5.0196% of the then fair market value thereof as determined in accordance with the provisions of paragraph 22 hereof and based on the average of such three (3) independent appraisals relating thereto and otherwise upon the same terms and conditions contained in this Lease save that there shall be no further right to extend the term hereof. Such right shall be exercised by the Lessee giving to the Permitted Assignee written notice of its intention to exercise such right not less than one hundred and twenty (120) days prior to the expiration of the First Renewal Option Period.

23. Indemnity Respecting Tax Matters; _____

(a) Subject as hereinafter provided, if, subsequent to the Permitted Assignment, the Permitted Assignee shall not, due to a change in the Income Tax Act (Canada) and/or the Income or Corporate Tax Acts of any province (such Federal and Provincial Income Tax Acts being hereinafter collectively referred to as the "said Income Tax Act") or the Regulations made pursuant thereto, be entitled to claim capital cost allowance under the provisions of the said Income Tax Act and

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the said Regulations in whole or in part at a rate equivalent to or better than twenty per cent (20%) (which is the rate in respect of the Units at the date hereof) or, due to such change, there shall be disallowed with respect to the Permitted Assignee all or any portion of its claim for such capital cost allowance during the period that this Lease is in effect, then the rental rate applicable to the Units set forth in paragraph 2(a) hereof shall on and after the next succeeding rental payment date after written notice to the Lessee by the Permitted Assignee that the Permitted Assignee is no longer, due to such change, entitled to claim such capital cost allowance or if claimed and then disallowed then on the next succeeding rental payment date after payment of the tax attributable thereto (which tax shall be reimbursed to the Permitted Assignee by the Lessee as additional rental on the next succeeding rental payment date), be increased by such amount over the balance of the term of the Lease, which in the reasonable opinion of the Permitted Assignee will cause the Permitted Assignee's net return in respect of the Units under this Lease to equal the net return that would have been available if the Permitted Assignee had been entitled to claim capital cost allowance at a rate of twenty per cent (20%).

(b) Provided, however, that if subsequent to the Permitted Assignment as a result of the occurrence of any of the following events, namely:

- (i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor or the Permitted Assignee the amounts stipulated under paragraph 6 hereof; or
- (ii) the failure of the Permitted Assignee to claim such capital cost allowance in its income tax return for the appropriate year or the failure of the Permitted Assignee to follow proper procedure in claiming such capital cost allowance; or
- (iii) a voluntary transfer by the Permitted Assignee to all or part of the legal title to such Unit,

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the disposition by the Permitted Assignee of any interest in such Unit or the reduction by the Permitted Assignee of its interest in the rentals from such Unit under the Lease (other than as contemplated by the Permitted Assignment) unless, in each case, an event of default shall have occurred and be continuing; or

- (iv) the failure of the Permitted Assignee to have sufficient income to benefit from the deduction of such capital cost allowance; or
- (v) the amendment of either the Conditional Sale Agreement or the Permitted Assignment without the prior written consent of the Lessee which consent shall not be unreasonably withheld,

the Permitted Assignee shall have lost or shall not have or shall have lost the right to claim or there shall have been disallowed with respect to the Permitted Assignee all or any portion of such capital cost allowance with respect to any Unit, then the rental rate shall not be increased as provided in (a) hereof.

(c) Provided further, notwithstanding the foregoing, any change occurring in the said Income Tax Act or the Regulations made pursuant thereto, the result of which shall be that the Permitted Assignee shall not be entitled to apply or claim such capital cost allowance in respect of any Unit as a deduction in computing its taxable income from sources other than under this Lease, shall not require the adjustment in the rental rate as provided in (a) hereof unless such change shall occur in the first five and one-half years of the term of this Lease and if any such change does occur within the first five and one-half years of the term of this Lease, the rental rate as provided in (a) hereof shall not apply and the rental rate applicable to such Unit as more particularly set forth in this Lease shall on and after the next succeeding rental payment date after which written notice to the Lessee by the Permitted Assignee that the Permitted Assignee is no longer entitled to



so claim such capital cost allowance, be increased by such amount for such Unit which in the reasonable opinion of the Permitted Assignee will be equal to the discounted then present value of the additional tax payable by the Permitted Assignee resulting from such change.

(d) If in the opinion of the Permitted Assignee's or the Lessee's tax counsel (hereinafter called "Counsel") a bona fide claim to all or a portion of such capital cost allowance on any Unit exists in respect of which the Lessee is required to pay any such increased rental to the Permitted Assignee as provided above, then the Permitted Assignee shall at the request and expense of the Lessee take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Permitted Assignee may take such action prior to making payment of the amounts claimed pursuant to any notice of assessment or reassessment or may make such payment and then seek a refund. The Permitted Assignee shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Permitted Assignee for all liabilities and expenses which may be entailed therein and shall have furnished the Permitted Assignee with such reasonable security therefor as may be requested.

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

24. 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 Canadian registered mails, first-class postage prepaid, addressed as follows:

If to the Lessor, 366 Bay Street, Toronto, Ontario
(with copy to Permitted Assignee at 625 Church Street,
Toronto, Ontario).

If to the Lessee, 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.

25. Severability. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be 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 Lessor and the Lessee.

26. No Recourse. No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, shareholder, director or officer, past, present or future, of the Lessor or the Lessee or the Permitted Assignee or against any beneficiaries in respect of which the Lessor may be acting as trustee, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of any such incorporators, shareholders, directors, officers or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

IN WITNESS WHEREOF the Lessor and the Lessee, each pursuant to due corporate authority, have caused this instrument to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the



date first above written.

GUARANTY TRUST COMPANY OF CANADA
as Trustee

By



AUTHORIZED SIGNATURE

E. B. Joller
AUTHORIZED SIGNATURE

Approved
as to form only

Attorney

CANADIAN NATIONAL RAILWAY COMPANY

By



AUTHORIZED SIGNATURE



AUTHORIZED SIGNATURE

SCHEDULE "A"

<u>Item</u>	<u>Quantity</u>	<u>Type and Specification</u>	<u>Unit Cost</u>	<u>Aggregate Cost</u>	<u>Identifying Numbers</u>	<u>Manufacturer's Plant</u>	<u>Date of Delivery</u>
550	70	Ton Compartmentized insulated and heated box cars, Canadian National Railway Specification F-110-5, dated May 1971, General Arrangement Drawing 9H-37428 and Spec. SS-1966, Letter of National Steel Car Corporation Limited dated May 3, 1971 and letters of Canadian National Railway to National Steel Car Corporation Limited dated June 2, 1971, June 17, 1971, June 30, 1971, July 7, 1971 and October 4, 1971.	\$26,587.25 (Cdn.) (incl. F.S.T.)	\$14,622,987.50 (Cdn.) (incl. F.S.T.)	CN-286000 -549	Hamilton, Ontario.	December 1971 to March 1972

Diets

SCHEDULE "B"

EQUIPMENT LEASE - SCHEDULE NO.

Dated the day of , 1971 to
Lease dated as of the day of December,
1971 ("Lease") between GUARANTY TRUST
COMPANY OF CANADA as Trustee ("Lessor")
and CANADIAN NATIONAL RAILWAY COMPANY
("Lessee")

1. The terms used herein shall have the meaning given to such terms in the Lease in accordance with the terms thereof.
2. The Lessor and the Lessee hereby confirm that the Units of Equipment described in Schedule "A" annexed hereto and forming part hereof have been delivered to, examined and accepted by the Lessee on the date hereof as Units leased under the Lease and are accordingly subject to and governed thereby and that the term of the Lease with respect thereto shall commence on the date hereof.
3. The Lessee does hereby acknowledge and confirm that the said Units of Equipment have been examined by duly appointed and authorized employees or representatives of the Lessee and that such examination discloses that same conform to the Specifications more particularly defined in the Manufacturing Agreement and are in good operating order, repair, condition and appearance on the date hereof.
4. The Lessee does hereby certify that at the time of such delivery of the Units to the Lessee there was plainly, permanently and conspicuously stencilled on each side thereof the following legend in letters not less than three-eighths inch in height:

"Owned and leased by Guaranty Trust Company of
Canada, 366 Bay Street, Toronto, Canada, as
Trustee under the terms of an Equipment Loan Trust
Declaration."



Approved and agreed to this day of , 1971
as a Schedule to and part of the Lease made between the
parties hereto as of the day of December, 1971.

GUARANTY TRUST COMPANY OF CANADA
as Trustee

CANADIAN NATIONAL RAILWAY
COMPANY

By:

By:

A handwritten signature in black ink, appearing to be "J. M. S.", is written over the signature line for the Guaranty Trust Company of Canada.

SCHEDULE "A" TO EQUIPMENT LEASE
SCHEDULE NO.

QUANTITY

DESCRIPTION OF UNITS

MANUFACTURERS

IDENTIFYING NUMBERS

John

PROVINCE OF ONTARIO)
)
CITY OF TORONTO)

On this *31st* day of December, 1971, before me personally appeared *R. R. Armstrong*, to me personally known, who, being by me duly sworn, says that he is *General Manager* of GUARANTY TRUST COMPANY OF CANADA, that one of the seals affixed to the foregoing instrument is the corporate seal of the said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Signature]

Notary Public

(Notarial Seal)

PROVINCE OF QUEBEC)
)
CITY OF MONTREAL)

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

[Signature]

Notary Public

(Notarial Seal)

My Commission is for life.