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INTERSTATE COMMERCE COMMISSION

Lease of Equipment

between

THE CANADA TRUST COMPANY,

as Owner-Trustee

and

CANADIAN NATIONAL RAILWAY COMPANY

Dated as of December 31, 1971

LEASE OF EQUIPMENT, dated as of December 31, 1971, between THE CANADA TRUST COMPANY, a trust company incorporated under the laws of Canada, as Owner-Trustee (hereinafter called the Lessor) under a Trust Agreement dated as of December 31, 1971, with FIRST SECURITY BANK OF IDAHO, NATIONAL ASSOCIATION, and CANADIAN NATIONAL RAILWAY COMPANY, a corporation duly incorporated under the laws of Canada (hereinafter called the Lessee).

WHEREAS, the Lessor, National Steel Car Corporation, Limited (hereinafter called the Manufacturer) and the Lessee have entered into a Manufacturing Agreement dated as of December 31, 1971 (hereinafter called the Manufacturing Agreement), wherein the Manufacturer has agreed to construct, sell and deliver the railroad equipment described in Schedule I hereto; and

WHEREAS, the Lessor has entered into an Equipment Trust Agreement dated as of December 31, 1971 (hereinafter called the Equipment Trust Agreement) with Canada Permanent Trust Company, as Trustee (hereinafter called the Trustee), under which the Lessor has agreed to cause the Manufacturer to sell, assign and transfer to the Trustee title to all the Units and under which the Trustee has agreed to lease all the Units to the Lessor;

WHEREAS, the Lessee desires to lease from the Lessor all the Units, or such lesser number as are delivered and accepted and settled for under the Manufacturing Agreement on or prior to May 1, 1972 (hereinafter called the Units), at the rentals and for the terms and upon the conditions hereinafter provided;

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 and subordinate to all the rights and remedies of the Trustee under the Equipment Trust Agreement.

§ 1. *Delivery and Acceptance of Units.* The Lessor will cause each Unit accepted pursuant to the Manufacturing Agreement to be tendered to the Lessee at such point or points as may be mutually acceptable to the Lessor and the Lessee. Immediately upon such tender, the Lessee will cause its authorized inspectors or representatives to inspect the same, and if such Unit is found to be in good operating order and repair, to accept delivery of such Unit and to execute and deliver to the Lessor a certificate of acceptance (hereinafter called a Certificate of Acceptance) certifying as to the actual date or acceptance of delivery by the Lessee; whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee under this Lease and shall be subject thereafter to all the terms and conditions of this Lease and such Certificate of Acceptance shall be absolutely binding upon the Lessee. Any Unit or Units excluded from the Equipment Trust Agreement pursuant to Section 3.01 of the Equipment Trust Agreement shall likewise be excluded from this Lease.

§ 2. *Rentals.* The Lessee agrees to pay to the Lessor, in lawful money of Canada or of the United States of America, as hereinafter more specifically set forth, as rental for each unit subject to this Lease, eighty-two (82) consecutive quarterly payments payable on the Business Day (as defined in the Equipment Trust Agreement) next preceding January 1, April 1, July 1 and October 1 of each year, commencing April 1, 1972. The Lessee acknowledges and agrees that the rental payments payable hereunder shall be paid partly in lawful money of Canada and partly in lawful money of the United States of America. That portion of each rental payment payable in lawful money of Canada shall be an amount equal to the percentage of the Canadian Cost (as such term is defined below) of the Units subject to this Lease set forth under the heading "Percentage of Canadian Cost" in the schedule set out below. That portion of each rental payment payable in lawful money of the United States of America shall be an amount equal to the percentage of U.S. Cost (as such term is defined hereinbelow) of the Units subject to this Lease set forth under the heading "Percentage of U.S. Cost" in the schedule set out below. For purposes of this Lease, Canadian Cost shall mean the aggregate Cost (as such term is defined in the Equipment Trust Agreement) of the Units subject to this Lease expressed in Canadian dollars. For purposes of this Lease, U.S. Cost shall mean an amount equal to the aggregate cost in U.S. dollars to the Lessor of the Canadian dollars used to make the payments to the Manufacturer on each Closing date (as defined in the Manufacturing Agreement) contemplated by Section 3.03 of the Equipment Trust Agreement divided by .203568. The Lessor agrees that the Lessee's consent shall be obtained for any exchange, prior to the date of the above-mentioned payments to the Manufacturer (but not on the date of such payments), of United States dollars for Canadian dollars for the purpose of obtaining Canadian dollars to make said payments, and that any such exchange shall be made at the selling price quoted on the New York market of Canadian dollars for bank transfers in the United States for payment abroad.

Except as otherwise provided above, the rental payment payable under this Lease on each rental payment date on which such rental payment is due shall be the sum of the amounts determined by multiplying the Canadian Cost and U.S. Cost of the Units subject to this Lease on such date by the applicable percentages set forth opposite such date in the following schedule:

RENTAL		
<u>Rental Payment Date No.</u>	<u>Percentage of Canadian Cost</u>	<u>Percentage of U.S. Cost</u>
1	.018804636%	.004806464%
2	.018804636	.004806464
3	1.692418	.007582
4	1.692418	.007582
5	1.692418	.007582

<u>Rental Payment Date No.</u>	<u>Percentage of Canadian Cost</u>	<u>Percentage of U.S. Cost</u>
6	1.692418	.007582
7	1.692418%	.007582%
8	1.692418	.007582
9	1.692418	.007582
10	1.692418	.007582
11	1.692418	.007582
12	1.692418	.007582
13	1.692418	.007582
14	1.692418	.007582
15	1.692418	.007582
16	1.692418	.007582
17	1.692418	.007582
18	1.692418	.007582
19	1.692418	.007582
20	1.692418	.007582
21	1.692418	.007582
22	1.692418	.007582
23	1.692418	.007582
24	1.692418	.007582
25	1.692418	.007582
26	1.692418	.007582
27	1.692418	.007582
28	1.692418	.007582
29	1.692418	.007582
30	1.692418	.007582
31	1.692418	.970582
32	1.692418	.970582
33	1.692418	.970582
<u>34</u>	1.692418	.970582
35	2.662999	0
36	2.662999	0
37	2.662999	0
38	2.662999	0
39	2.662999	0
40	2.662999	0
41	2.662999	0
42	2.662999	0
43	2.662999	0
44	2.662999	0
45	2.662999	0
46	2.662999	0
47	2.662999	0
48	2.662999	0

<u>Rental Payment Date No.</u>	<u>Percentage of Canadian Cost</u>	<u>Percentage of U.S. Cost</u>
49	2.662999%	0%
50	2.662999	0
51	2.662999	0
52	2.662999	0
53	2.662999	0
54	2.662999	0
55	2.662999	0
56	2.662999	0
57	2.662999	0
58	2.662999	0
59	2.662999	0
60	2.662999	0
61	2.662999	0
62	2.662999	0
63	2.662999	0
64	2.662999	0
65	2.662999	0
66	2.662999	0
67	2.662999	0
68	2.662999	0
69	2.662999	0
70	2.662999	0
71	2.662999	0
72	2.662999	0
73	2.662999	0
74	2.662999	0
75	2.662999	0
76	2.662999	0
77	2.662999	0
78	2.662999	0
79	2.662999	0
80	2.662999	0
81	2.662999	0
82	2.662999	0

The first such quarterly rental payment shall be made in respect of the Units subject to this Lease which shall have been settled for on or prior to April 1, 1972 under the Manufacturing Agreement and the Equipment Trust Agreement and such payment shall be in an amount equal to the sum of the percentages of the Canadian Cost and U.S. Cost of each such Unit (as set forth in the schedule above) for each day elapsed from and including the date such Units are so settled for to and including April 1, 1972. The second such

quarterly rental payment, covering the period from April 2, 1972 to and including July 1, 1972, shall be in an amount equal to the sum of (x) the percentages of the Canadian Cost and U.S. Cost (as set forth in the schedule above) of the Units subject to this Lease which shall have been settled for on or before April 1, 1972, and (y) the percentages of the Canadian Cost and U.S. Cost (as set forth in the schedule above) of each such other Units subject to this Lease for each day elapsed from and including the date such Units are so settled for to and including July 1, 1972. The remaining quarterly rental payments in respect of each Unit subject to this Lease shall be in an amount equal to the sum of the percentages of the Canadian Cost of the U.S. Cost of such Units (as set forth in the schedule above).

All rental and other payments provided for in this Lease to be made to the Lessor shall be made to the Lessor by the deposit of the funds to the account of the Lessor at the branch of such bank or trust company as shall be from time to time specified in writing by the Lessor.

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 Trustee; 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 private person or entity, the invalidity or unenforceability or lack of due authorization of this Lease or lack of right, power or authority of the Lessor to enter into this Lease, the breach by the Lessor of the representations and warranties of the Lessor contained in the second paragraph of § 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. *Terms of Lease.* The term of this Lease as to each Unit shall begin upon acceptance thereof by the Lessee pursuant to § 1 hereof, and, subject to the provisions of §§ 1, 6, 9, 17 and 19 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 Trustee under the Equipment Trust Agreement.

§ 4. *Identification Marks.* The Lessee will cause each Unit to be kept numbered with the identifying number as set forth in Annex 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: "OWNED BY CANADA PERMANENT TRUST COMPANY, 320 BAY STREET, TORONTO, ONTARIO, CANADA, AS TRUSTEE UNDER THE TERMS OF AN EQUIPMENT TRUST AGREEMENT", or other appropriate words designated by the Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the interests of the Lessor and the Trustee in and to such Unit and the rights of the Lessor under this Lease and the Equipment Trust Agreement and of the Trustee under the Equipment Trust Agreement. 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 Trustee and 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 Trustee for collection or other charges and will be free of expense to the Lessor and the Trustee with respect to the amount of any local, state, provincial or federal Canadian, United States or Mexican taxes (other than any local, state, provincial or federal Canadian, United States or Mexican income taxes [to the extent that the Lessor receives credit for such United States or Mexican taxes against its Canadian income tax liability] payable by the Lessor in consequence of the receipt of payments provided herein, and other than the aggregate of all franchise taxes measured by net income based on such receipts, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), 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 Equipment Trust Agreement or any of the instruments or agreements referred to herein or therein or contemplated hereby or thereby, or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof, the Equipment Trust Agreement or any such instruments or agreements, 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 solely by reason of its interest therein or upon the Trustee solely by reason of its title thereto and any and all impositions upon or on account of the trust created by the Equipment Trust Agreement or upon or on account of the Equipment Trust Agreement, or the transactions contemplated thereby (whether or not such transactions shall actually be consummated) or the instruments or agreements referred to therein or contemplated thereby, 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 interests of the Lessor or the Trustee or result in a claim, lien, security interest or other encumbrance upon any such Unit and will supply the Lessor and the Trustee with a receipt or other evidence of such payment satisfactory to the Lessor and the Trustee; *provided, however*, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor or the Trustee, adversely affect the property or rights of the Lessor or the Trustee hereunder or under the Equipment Trust Agreement and the Lessee shall have furnished the Trustee with an opinion of counsel to such effect. If any such impositions shall have been charged or levied against the Lessor or the Trustee directly and paid by the Lessor or the Trustee, the Lessee shall reimburse the Lessor or the Trustee, 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 Trustee for any such imposition so paid unless the Lessor or the Trustee shall have been, in the opinion of its 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 Trustee in such Units, if such is necessary or appropriate, or will notify the Lessor and the Trustee of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor and the Trustee.

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 § 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 § 12 hereof, the Lessee shall, within 30 days after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor and the Trustee with respect thereto. On the rental payment date next succeeding such notice (or, at the option of the Lessee, in the event such rental date shall occur within 15 days after such notice, on the next succeeding rental payment date) the Lessee shall pay to the Lessor an amount equal to the Casualty Value (as hereinafter defined) of such Unit as of such rental payment date in accordance with the schedule set out below. 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 Casualty Value of any Unit execute and deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Unit such as will transfer to the Lessee such title to such Unit as is derived from the Manufacturer free and clear of all liens, security interests and other encumbrances arising through the Lessor or the Trustee.

It is acknowledged and agreed that the Casualty Value payable by the Lessee to the Lessor shall be paid in lawful money of Canada and of the United States of America in the manner hereinafter described. That portion of the Casualty Value payable in lawful money of Canada shall be equal to the amount payable by the Lessor to the Trustee pursuant to the second paragraph of Section 4.07 of the Equipment Trust Agreement. That portion of the Casualty Value payable in lawful money of the United States of America shall be computed as follows: (i) the Casualty Value shall be determined on the basis of the U.S. Cost of the Equipment (as defined in § 2 of this Lease); (ii) there shall be deducted from the Casualty Value (as so determined) an amount equal to the amount which would be payable by the Lessor to the Trustee pursuant to the second paragraph of Section 4.07 of the Equipment Trust Agreement if such amount was to be paid to the Trustee in lawful money of the United States of America; (iii) the amount remaining, after deducting the assumed payments to the Trustee described in clause (ii) above from the Casualty Value determined in the manner described in clause (i) above, shall be the portion of the Casualty Value payment which shall be payable by the Lessee in lawful money of the United States of America.

The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Cost of such Unit as is set forth in the following schedule opposite the number of such rental payment date:

CASUALTY VALUE

<u>Rental Payment Date No.</u>	<u>Percentage</u>	<u>Rental Payment Date No.</u>	<u>Percentage</u>
1	104.5701%	42	92.6553%
2	104.5701	43	91.1386
3	105.2707	44	89.5971
4	105.9261	45	88.0303
5	106.1431	46	86.4381
6	106.7255	47	84.8251
7	107.2449	48	83.1887
8	107.7183	49	81.5284
9	108.1450	50	79.8430
10	108.5440	51	78.1393
11	108.8823	52	76.4137
12	109.1757	53	74.6657
13	109.4234	54	72.8927
14	109.6430	55	71.1042
15	109.8043	56	69.2952
16	109.9218	57	67.4654
17	109.9948	58	65.6108
18	110.0436	59	63.7432
19	110.0582	60	61.8565
20	110.0499	61	59.9502
21	110.0184	62	58.0187
22	109.9722	63	56.0738
23	109.8979	64	54.1091
24	109.8021	65	52.1239
25	109.6848	66	50.1121
26	109.5534	67	48.0867
27	109.3963	68	46.0406
28	109.2193	69	43.9731
29	109.0224	70	41.8776
30	108.8140	71	39.7682
31	107.6259	72	37.6373
32	106.4051	73	35.4840
33	105.1511	74	33.3012
34	103.8700	75	31.1042
35	102.5614	76	28.8847
36	101.2256	77	26.6419
37	99.8621	78	24.3680
38	98.4728	79	22.0797
39	97.0577	80	19.7679
40	95.6165	81	17.4318
41	94.1488	82	15.0000

Thereafter, the lesser of 15.0000% or the Fair Market Value thereof immediately prior to the Casualty Occurrence, such Fair Market Value to be calculated in the manner provided in § 19 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.

§ 7. *Annual Reports.* On or before April 1 in each year, commencing with the year 1973, the Lessee will furnish to the Lessor and the Trustee, in such number of counterparts or copies as may reasonably be requested an accurate statement signed by an authorized representative, (i) showing, as of the preceding December 31, the amount, description and numbers of all Units then leased hereunder and 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 or the Trustee 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 § 4 hereof and Section 4.06 of the Equipment Trust 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 continuance of this Lease.

§ 8. *Disclaimer of Warranties; Compliance With Laws and Rules; Maintenance; Indemnification; and Insurance.* The Lessor makes no 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 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 of and for the account 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 of the Units or of the components thereof. Lessor shall have no 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, the Lessor and the Trustee, that all Units described in a Certificate of Acceptance 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 Trustee 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 and the Trustee, unimpaired by any act or omission of the Lessor or the Trustee 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, security interests and encumbrances, except those created or arising under the Equipment Trust Agreement, which may result from claims against the Lessor or the Trustee not arising out of the lease or 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 peaceable 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 Trustee under the Equipment Trust Agreement but neither the Lessor nor the Trustee 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 19 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 favor of any person claiming by, through or under the Lessor.

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

The Lessee agrees, for the benefit of the Lessor and the Trustee, to comply in all respects with all laws of the jurisdictions in which operations involving any Unit subject to this 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 Trustee and agrees to hold the Lessor and the Trustee harmless from and against any and all liability that may arise from any infringement or violation of any such laws or rules by the Lessor or the Lessee, or their 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 or the Trustee, adversely affect the property or rights of the Lessor or the Trustee hereunder or under the Equipment Trust 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 expected.

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 accessions other than those added or made to comply with the fifth paragraph of this §8 as can be removed without damage to, and without impairing the originally intended function or use of, such Unit and without cost or expense to the Lessor or the Trustee) and shall be immediately vested in the Lessor and the Trustee the same interest in such accessions, parts or replacements as the interests of the Lessor and the Trustee 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.

The Lessee agrees to indemnify and save harmless the Lessor and the Trustee against any charge or claim made against the Lessor or the Trustee 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 Trustee may incur in any manner by reason of 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 Trustee 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 Trustee under this paragraph for negligence on the part of the Lessor or the Trustee. 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 §§ 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.

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) any and all reports known by the Lessee to be required to be filed by the Lessor, or requested by the Lessor to be filed, with any federal, state or other regulatory authority by reason of the interest of the Trustee and 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 § 2 hereof and such default shall continue for 10 days; or

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

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Consent (as hereinafter defined) and such default shall continue (and the Lessee shall not make effective provisions for curing such default) for 30 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied; or

D. any proceedings shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganization, arrange-

ments, 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 in 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 decree, 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 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

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 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), (i) as liquidated damages for loss of the bargain and not as a penalty, a sum with respect to each Unit subject to this Lease (save and except those excluded pursuant to § 6 thereof), 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 net rentals which the Lessor reasonably estimates to be obtainable for the lease of the Unit during such period, such present value to be computed in each case on a basis of 5% per annum discount compounded quarterly from the

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 this Lease or the Consent, or all such approvals (which shall be specifically described) have been obtained; and

E. the entering into and performance of this Lease and the Consent 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 and the Trustee a copy, certified by the Secretary or an Assistant Secretary of the Lessee, of resolutions of the Board of Directors of the Lessee authorizing the Lessee to enter into this Lease and the Consent.

The Lessor agrees to furnish to the Lessee signed copies, addressed to the Lessee, of the opinion of counsel referred to in Paragraph 5(b) of the Purchase Agreement, which opinion shall in addition state that 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 this Lease, the Manufacturing Agreement, the Equipment Trust Agreement and the Assignment, and of the opinion of counsel for the Manufacturer referred to in paragraph 3.04 (b) of the Equipment Trust Agreement.

§ 14. *Indemnity in Respect of Tax Matters.* The Lease, the Equipment Trust Agreement, the Manufacturing Agreement and the Owner Trust Agreement have been entered into on the basis that the beneficiary of the Lessor, namely First Security Bank of Idaho, National Association (herein called the "Beneficiary") 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, to an owner of property including (without limitation) depreciation deductions with respect to the Units, computed in accordance with any of the methods listed in Section 167(b). If (other than for the reasons set forth

below) the Beneficiary 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 Beneficiary, all or any portion of such depreciation deductions with respect to a Unit in computing taxable income under one of the accelerated methods of depreciation provided in said Section 167(b) for the period this Lease is in effect, 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 and/or the Beneficiary that such depreciation deductions have not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Beneficiary, 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 Beneficiary had been entitled to utilization of all or such portion of the most favorable of such depreciation deductions which were not claimed or were disallowed and the Lessee shall forthwith pay to the Lessor as additional rental the amount of any interest which may be assessed by the United States against the Beneficiary attributable to the loss of all or any portion of such depreciation deductions; *provided, however*, that such rental rate shall not be so increased if the Beneficiary 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 Beneficiary all or any portion of such depreciation deductions 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 or the Beneficiary (other than as contemplated by the Equipment Trust Agreement) of any interest in such Unit, the disposition by the Lessor or the Beneficiary of any interest in such Unit or the reduction by the Lessor or the Beneficiary of its or their 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 of the Equipment Trust Agreement without the prior written consent of the Lessee;

(iv) the failure of the Beneficiary to claim such depreciation deductions in its income tax returns for the appropriate year or the failure of the Lessor or the Beneficiary to follow proper procedures in claiming the same; or

(v) the failure of the Beneficiary to have sufficient income to benefit from such depreciation deductions.

The Lessor agrees that if, in the opinion of its or the Lessee's independent tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of such depreciation deductions 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 depreciation deductions disallowed, computed at the rate of $8\frac{1}{2}\%$ 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 § 14. 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 § 14 shall survive the expiration or other termination of this Lease.

§ 15. *Recording; Expenses.* Prior to the delivery and acceptance of any Unit, the Lessor will, at its own expense, cause the Equipment Trust Agreement, this Lease and the Assignment (including the Consent) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada and cause notice of such deposit to be forthwith thereafter given in the *Canada Gazette*, pursuant to Section 86 of the Railway Act of Canada. The Lessor will, at its own expense, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments reasonably requested by the Trustee, for the purpose of proper protection, to the satisfaction of the Trustee, of the Lessor's and the Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Assignment, the Consent and the Equipment Trust Agreement. The Lessor will promptly furnish to the Trustee evidence of all such filing, registering, recording, depositing, refile, reregistering, rerecording and/or re-depositing and an opinion or opinions of counsel with respect thereto satisfactory to the Lessor and the Trustee.

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.

SCHEDULE I

<u>Quantity</u>	<u>Type and Specifications</u>	<u>Cost</u>	<u>Identifying Numbers (both inclusive)</u>
150	Tri-level cars; CN Specification F-140-1 dated May, 1971, General Arrangement Drawing 9H-37476 and Specification SS-1966 and Letter of Manufacturer to Lessee dated June 11, 1971	\$4,679,491.50 (Canadian)	CN 700500 to 700649

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 this Lease or the Consent, or all such approvals (which shall be specifically described) have been obtained; and

E. the entering into and performance of this Lease and the Consent 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 and the Trustee a copy, certified by the Secretary or an Assistant Secretary of the Lessee, of resolutions of the Board of Directors of the Lessee authorizing the Lessee to enter into this Lease and the Consent.

The Lessor agrees to furnish to the Lessee signed copies, addressed to the Lessee, of the opinion of counsel referred to in Paragraph 5(b) of the Purchase Agreement, which opinion shall in addition state that 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 this Lease, the Manufacturing Agreement, the Equipment Trust Agreement and the Assignment, and of the opinion of counsel for the Manufacturer referred to in paragraph 3.04 (b) of the Equipment Trust Agreement.

§ 14. *Indemnity in Respect of Tax Matters.* The Lease, the Equipment Trust Agreement, the Manufacturing Agreement and the Owner Trust Agreement have been entered into on the basis that the beneficiary of the Lessor, namely First Security Bank of Idaho, National Association (herein called the "Beneficiary") 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, to an owner of property including (without limitation) depreciation deductions with respect to the Units, computed in accordance with any of the methods listed in Section 167(b). If (other than for the reasons set forth

below) the Beneficiary 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 Beneficiary, all or any portion of such depreciation deductions with respect to a Unit in computing taxable income under one of the accelerated methods of depreciation provided in said Section 167(b) for the period this Lease is in effect, 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 and/or the Beneficiary that such depreciation deductions have not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Beneficiary, 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 Beneficiary had been entitled to utilization of all or such portion of the most favorable of such depreciation deductions which were not claimed or were disallowed and the Lessee shall forthwith pay to the Lessor as additional rental the amount of any interest which may be assessed by the United States against the Beneficiary attributable to the loss of all or any portion of such depreciation deductions; *provided, however*, that such rental rate shall not be so increased if the Beneficiary 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 Beneficiary all or any portion of such depreciation deductions 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 or the Beneficiary (other than as contemplated by the Equipment Trust Agreement) of any interest in such Unit, the disposition by the Lessor or the Beneficiary of any interest in such Unit or the reduction by the Lessor or the Beneficiary of its or their 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 of the Equipment Trust Agreement without the prior written consent of the Lessee;

(iv) the failure of the Beneficiary to claim such depreciation deductions in its income tax returns for the appropriate year or the failure of the Lessor or the Beneficiary to follow proper procedures in claiming the same; or

(v) the failure of the Beneficiary to have sufficient income to benefit from such depreciation deductions.

The Lessor agrees that if, in the opinion of its or the Lessee's independent tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of such depreciation deductions 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 depreciation deductions disallowed, computed at the rate of $8\frac{1}{2}\%$ 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 § 14. 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 § 14 shall survive the expiration or other termination of this Lease.

§ 15. *Recording; Expenses.* Prior to the delivery and acceptance of any Unit, the Lessor will, at its own expense, cause the Equipment Trust Agreement, this Lease and the Assignment (including the Consent) to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada and cause notice of such deposit to be forthwith thereafter given in the *Canada Gazette*, pursuant to Section 86 of the Railway Act of Canada. The Lessor will, at its own expense, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments reasonably requested by the Trustee, for the purpose of proper protection, to the satisfaction of the Trustee, of the Lessor's and the Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Assignment, the Consent and the Equipment Trust Agreement. The Lessor will promptly furnish to the Trustee evidence of all such filing, registering, recording, depositing, refile, reregistering, rerecording and/or re-depositing and an opinion or opinions of counsel with respect thereto satisfactory to the Lessor and the Trustee.

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.

SCHEDULE I

<u>Quantity</u>	<u>Type and Specifications</u>	<u>Cost</u>	<u>Identifying Numbers (both inclusive)</u>
150	Tri-level cars; CN Specification F-140-1 dated May, 1971, General Arrangement Drawing 9H-37476 and Specification SS-1966 and Letter of Manufacturer to Lessee dated June 11, 1971	\$4,679,491.50 (Canadian)	CN 700500 to 700649

PROVINCE OF ONTARIO }
JUDICIAL DISTRICT OF YORK } ss.:

On this ^{19th} day of January, 1972, before me personally appeared ^{R. M. Anderson} to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of THE CANADA TRUST 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.

[Handwritten Signature]
Notary Public

[NOTARIAL SEAL]

PROVINCE OF QUEBEC }
CITY OF MONTREAL } s.s.:

On this ^{17th} day of January, 1972, before me personally appeared ^{A. R. [unclear]} to me personally known, who, being by me duly sworn, says that he is the 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.

[Handwritten Signature]
Notary Public

My commission is for life.

[NOTARIAL SEAL]

ASSIGNMENT OF LEASE AND AGREEMENT dated as of December 31, 1971, by and between THE CANADA TRUST COMPANY, a trust company incorporated under the laws of Canada, as Owner-Trustee (hereinafter called the Company) under a Trust Agreement dated as of December 31, 1971 with First Security Bank of Idaho, National Association, and Canada Permanent Trust Company, as Trustee (hereinafter called the Trustee), under an Equipment Trust Agreement dated as of December 31, 1971 (hereinafter called the Equipment Trust Agreement), between the Trustee and the Company.

WHEREAS the Company, as Lessor, and Canadian National Railway Company, as Lessee (hereinafter called the Lessee), have entered into a Lease (as defined in the Equipment Trust Agreement), providing for the leasing by the Company to the Lessee of the Units (as defined in the Lease); and

WHEREAS, in order to provide security for the obligations of the Company under the Equipment Trust Agreement and as an inducement to the purchasers of the equipment trust certificates to be issued under the Equipment Trust Agreement to purchase said certificates, the Company has agreed to assign for security purposes its rights in, to and under the Lease to the Trustee;

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

1. As security for the payment and performance of its obligations under the Equipment Trust Agreement, the Company hereby assigns, transfers, and sets over unto the Trustee all the Company's right, title and interest as Lessor under the Lease, together with all rights, powers, privileges, and other benefits of the Company as Lessor under the Lease including without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Company from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Company, as Lessor, is or may become entitled to do under the Lease.

The Company agrees to cause all the Payments to be made directly to the Trustee at 320 Bay Street, Toronto, Ontario, Canada. The Trustee will accept all Payments and all other payments pursuant to this Assignment and will apply the same as follows: *first*, to or toward the payment of all amounts then due and payable or which shall become due and payable on the next succeeding January 1, April 1, July 1 or October 1, as the case may be, under the Equipment Trust Agreement and the Trustee shall credit such Payments and such payments pursuant to this Assignment so applied to the amounts so due and payable or so to become due and payable on the next succeeding January 1,

April 1, July 1 or October 1, as the case may be, by the Company under the Equipment Trust Agreement; and *second*, so long as, to the actual knowledge of the Trustee, no Event of Default (as defined in the Equipment Trust Agreement) or event known to the Trustee which, with notice or lapse of time or both, would constitute an Event of Default shall have occurred and then be continuing, any balance of such Payments and such payments pursuant to this Assignment remaining shall be paid over to the Company by the Trustee. So long as, to the actual knowledge of the Trustee, an Event of Default or event which with notice or lapse of time or both, would constitute an Event of Default shall then be continuing, the Trustee shall not pay over any of the Payments or such payments pursuant to this Assignment, but, during such continuance, shall apply all Payments and all such payments pursuant to this Assignment in a manner consistent with the provisions of the Equipment Trust Agreement. Anything in this Agreement to the contrary notwithstanding, no amounts shall be considered to be due and payable by the Company under the Equipment Trust Agreement in the event that such amounts shall have been paid by the Lessee to the Trustee pursuant to the Lease, the Equipment Trust Agreement, this Assignment and/or the Lessee's Consent and Agreement annexed hereto.

2. The assignment made hereby is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Trustee to, or transfer, or pass, or in any way affect or modify any liability of the Company under the Lease, it being understood and agreed that notwithstanding such assignment or any subsequent assignment all obligations of the Company to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Company or persons other than the Trustee.

3. To protect the security afforded by this Assignment the Company agrees as follows:

(a) Faithfully to abide by, perform and discharge each and every obligation, covenant and agreement of the Lease by the Company to be performed; at the sole cost and expense of the Company (except as otherwise provided herein or by any of the instruments or agreements referred to herein or in the Equipment Trust Agreement), to enforce or secure the performance of each and every obligation, covenant, condition and agreement contained in the Lease by the Lessee to be performed; without the written consent of the Trustee not to anticipate the rents under the Lease or to waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein; to hold any Payments received by the Company which are assigned and set over to the Trustee by this Assign-

ment in trust for the Trustee and to turn them over to the Trustee forthwith in the same form in which they are received for application in accordance with the terms and conditions hereof.

(b) At the Company's sole cost and expense (except as otherwise provided herein or by any of the instruments or agreements referred to herein or in the Equipment Trust Agreement), to (i) appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the Lease or the obligations, duties or liabilities of the Company and the Lessee thereunder and (ii) pay all costs and expenses of the Trustee, including attorneys' fees in a reasonable sum, in any action or proceeding pertaining thereto in which the Trustee may appear.

(c) That should the Company fail to make any payment or to do any act as herein provided, then the Trustee, but without obligation so to do and without notice to or demand on the Company and without releasing the Company from any obligation hereunder, may make or do the same in such manner and to such extent as the Trustee may deem necessary to protect the security hereof, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Trustee, and also the right to perform and discharge each and every obligation, covenant and agreement of the Company contained in the Lease; and in exercising any such powers to pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees.

(d) To pay immediately upon demand, all sums expended by the Trustee under the authority hereof, together with interest thereon at the rate of $8\frac{1}{2}\%$ per annum.

4. The Company does hereby constitute the Trustee the Company's true and lawful attorney, irrevocably, with full power (in the name of the Company, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Company is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any cheques or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Trustee may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Company's obligations under the Equipment Trust Agreement, the assignment made hereby and all rights herein assigned to the Trustee shall terminate, and all estate, right, title and interest of the Trustee in and to the Lease and the Payments shall revert to the Company.

SCHEDULE I

<u>Quantity</u>	<u>Type and Specifications</u>	<u>Cost</u>	<u>Identifying Numbers (both inclusive)</u>
150	Tri-level cars; CN Specification F-140-1 dated May, 1971, General Arrangement Drawing 9H-37476 and Specification SS-1966 and Letter of Manufacturer to Lessee dated June 11, 1971	\$4,679,491.50 (Canadian)	CN 700500 to 700649

PROVINCE OF ONTARIO }
JUDICIAL DISTRICT OF YORK } ss.:

On this ^{19th} day of January, 1972, before me personally appeared ^{R. M. Anderson} to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of THE CANADA TRUST 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.

[Handwritten Signature]
Notary Public

[NOTARIAL SEAL]

PROVINCE OF QUEBEC }
CITY OF MONTREAL } s.s.:

On this ^{17th} day of January, 1972, before me personally appeared ^{A. R. [unclear]} to me personally known, who, being by me duly sworn, says that he is the 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.

[Handwritten Signature]
Notary Public

My commission is for life.

[NOTARIAL SEAL]

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WHEREAS the Company, as Lessor, and Canadian National Railway Company, as Lessee (hereinafter called the Lessee), have entered into a Lease (as defined in the Equipment Trust Agreement), providing for the leasing by the Company to the Lessee of the Units (as defined in the Lease); and

WHEREAS, in order to provide security for the obligations of the Company under the Equipment Trust Agreement and as an inducement to the purchasers of the equipment trust certificates to be issued under the Equipment Trust Agreement to purchase said certificates, the Company has agreed to assign for security purposes its rights in, to and under the Lease to the Trustee;

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

1. As security for the payment and performance of its obligations under the Equipment Trust Agreement, the Company hereby assigns, transfers, and sets over unto the Trustee all the Company's right, title and interest as Lessor under the Lease, together with all rights, powers, privileges, and other benefits of the Company as Lessor under the Lease including without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Company from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Company, as Lessor, is or may become entitled to do under the Lease.

The Company agrees to cause all the Payments to be made directly to the Trustee at 320 Bay Street, Toronto, Ontario, Canada. The Trustee will accept all Payments and all other payments pursuant to this Assignment and will apply the same as follows: *first*, to or toward the payment of all amounts then due and payable or which shall become due and payable on the next succeeding January 1, April 1, July 1 or October 1, as the case may be, under the Equipment Trust Agreement and the Trustee shall credit such Payments and such payments pursuant to this Assignment so applied to the amounts so due and payable or so to become due and payable on the next succeeding January 1,

April 1, July 1 or October 1, as the case may be, by the Company under the Equipment Trust Agreement; and *second*, so long as, to the actual knowledge of the Trustee, no Event of Default (as defined in the Equipment Trust Agreement) or event known to the Trustee which, with notice or lapse of time or both, would constitute an Event of Default shall have occurred and then be continuing, any balance of such Payments and such payments pursuant to this Assignment remaining shall be paid over to the Company by the Trustee. So long as, to the actual knowledge of the Trustee, an Event of Default or event which with notice or lapse of time or both, would constitute an Event of Default shall then be continuing, the Trustee shall not pay over any of the Payments or such payments pursuant to this Assignment, but, during such continuance, shall apply all Payments and all such payments pursuant to this Assignment in a manner consistent with the provisions of the Equipment Trust Agreement. Anything in this Agreement to the contrary notwithstanding, no amounts shall be considered to be due and payable by the Company under the Equipment Trust Agreement in the event that such amounts shall have been paid by the Lessee to the Trustee pursuant to the Lease, the Equipment Trust Agreement, this Assignment and/or the Lessee's Consent and Agreement annexed hereto.

2. The assignment made hereby is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Trustee to, or transfer, or pass, or in any way affect or modify any liability of the Company under the Lease, it being understood and agreed that notwithstanding such assignment or any subsequent assignment all obligations of the Company to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Company or persons other than the Trustee.

3. To protect the security afforded by this Assignment the Company agrees as follows:

(a) Faithfully to abide by, perform and discharge each and every obligation, covenant and agreement of the Lease by the Company to be performed; at the sole cost and expense of the Company (except as otherwise provided herein or by any of the instruments or agreements referred to herein or in the Equipment Trust Agreement), to enforce or secure the performance of each and every obligation, covenant, condition and agreement contained in the Lease by the Lessee to be performed; without the written consent of the Trustee not to anticipate the rents under the Lease or to waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein; to hold any Payments received by the Company which are assigned and set over to the Trustee by this Assign-

ment in trust for the Trustee and to turn them over to the Trustee forthwith in the same form in which they are received for application in accordance with the terms and conditions hereof.

(b) At the Company's sole cost and expense (except as otherwise provided herein or by any of the instruments or agreements referred to herein or in the Equipment Trust Agreement), to (i) appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the Lease or the obligations, duties or liabilities of the Company and the Lessee thereunder and (ii) pay all costs and expenses of the Trustee, including attorneys' fees in a reasonable sum, in any action or proceeding pertaining thereto in which the Trustee may appear.

(c) That should the Company fail to make any payment or to do any act as herein provided, then the Trustee, but without obligation so to do and without notice to or demand on the Company and without releasing the Company from any obligation hereunder, may make or do the same in such manner and to such extent as the Trustee may deem necessary to protect the security hereof, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Trustee, and also the right to perform and discharge each and every obligation, covenant and agreement of the Company contained in the Lease; and in exercising any such powers to pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees.

(d) To pay immediately upon demand, all sums expended by the Trustee under the authority hereof, together with interest thereon at the rate of $8\frac{1}{2}\%$ per annum.

4. The Company does hereby constitute the Trustee the Company's true and lawful attorney, irrevocably, with full power (in the name of the Company, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Company is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any cheques or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Trustee may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Company's obligations under the Equipment Trust Agreement, the assignment made hereby and all rights herein assigned to the Trustee shall terminate, and all estate, right, title and interest of the Trustee in and to the Lease and the Payments shall revert to the Company.

6. The Company represents and warrants that (a) the execution and delivery by the Company of the Lease, this Assignment and the Equipment Trust Agreement have each been duly authorized, and the Lease, this Assignment and the Equipment Trust Agreement are and will remain the valid and binding obligations of the Company in accordance with their terms; (b) the Company has not executed any other assignment of the Lease and the Trustee's right to receive all payments under the Lease is and will continue to be free and clear of any and all liens, agreements, security interests or other encumbrances prior to or *pari passu* with the interests of the Trustee, (c) notwithstanding this Assignment, the Company will conform and comply with each and all of the covenants and conditions in the Lease and the Equipment Trust Agreement set forth to be complied with by it, (d) to the knowledge of the Company, it has performed all obligations on its part to be performed under the Lease and the Equipment Trust Agreement on or prior to the date hereof and (e) the Lease and the Equipment Trust Agreement are in full force and effect and have not been canceled and to the knowledge of the Company there has not occurred on or prior to the date hereof any Event of Default (as that term is defined in the Equipment Trust Agreement) or any event which with notice and/or lapse of time constitute such an Event of Default.

If an Event of Default (as defined in the Equipment Trust Agreement) shall occur and be continuing, the Trustee shall be entitled (i) to exercise all the rights, privileges and remedies available to the Lessor under the Lease and to the Trustee under the Equipment Trust Agreement and (ii) to do any acts which the Trustee deems proper to protect the security hereof, either with or without taking possession of the Units. The taking possession of the Units and the taking of any action permitted as aforesaid shall not cure or waive any default or waive, modify or affect any default hereunder or under the Lease or the Equipment Trust Agreement, or invalidate any act done hereunder.

7. The Company covenants and agrees with the Trustee that in any suit, proceeding or action brought by the Trustee under the Lease for any instalment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, the Company will save, indemnify and keep the Trustee harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Lessee or its successors, arising out of a breach by the Company of any obligation under the Lease or arising out of any other indebtedness or liability at any time owing to the Lessee or its successors from the Company. Any and all such obligations of the Company shall be and remain enforceable against and only against the Company and shall not be enforceable against the Trustee or any party or parties in whom any of the rights of the Company under the Lease shall vest by reason of the successive assignments or transfers.

8. The Company will from time to time execute all such financing statements and supplemental instruments and documents as the Trustee may from time to time reasonably request in order to confirm or further assure the assignment made hereby and the provisions hereof.

9. The Trustee may assign to any successor trustee appointed pursuant to Section 8.06 of the Equipment Trust Agreement or any co-trustee or separate trustee appointed pursuant to Section 8.09 thereof all or any of its rights under the Lease, including the right to receive any payments due or to become due to it from the Lessee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all obligations of the Trustee hereunder.

10. The Company agrees that it will not, without the prior written consent of the Trustee, enter into any agreement amending, modifying or terminating the Lease and that any amendment, modification or termination thereof without such consent shall be void.

11. This Assignment shall be governed by the laws of the Province of Ontario, Canada, *provided, however*, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act of the United States, the applicable recording laws of Canada and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the markings on the Units as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

12. The Company shall cause copies of all notices received in connection with the Lease to be promptly delivered to the Trustee at 320 Bay Street, Toronto, Ontario, Canada, or at such other address as the Trustee shall designate.

13. Any provision of this Assignment 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. To the extent permitted by applicable law, the Company hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

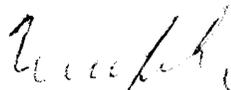
IN WITNESS WHEREOF, the Company has caused this instrument to be signed by an officer thereunto duly authorized, as of the date first above written.

THE CANADA TRUST COMPANY,
as Owner-Trustee,

[CORPORATE SEAL]

by 
Authorized Officer

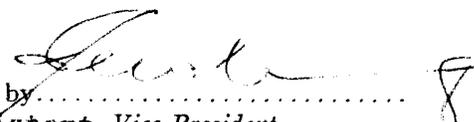
Attest: 


Authorized Officer

Accepted:

APPROVED AS TO
FORM AND CONTENT.....

CANADA PERMANENT TRUST COMPANY,
as Trustee.

by 
Assistant Vice-President


ASSOCIATE SECRETARY

PROVINCE OF ONTARIO }
JUDICIAL DISTRICT OF YORK } ss.:

On this ^{19th} day of January 1972, before me personally appeared *K. M. ANDREW*, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of THE CANADA TRUST COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

John J. Justice
Notary Public

[NOTARIAL SEAL]

LESSEE'S CONSENT AND AGREEMENT

The undersigned, a corporation duly incorporated under the laws of Canada, the Lessee named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease and Agreement (hereinafter called the Assignment), hereby (a) acknowledges receipt of a copy of the Assignment and (b) consents to all the terms and conditions of the Assignment.

As an inducement to the purchasers of the equipment trust certificates to be issued pursuant to the Equipment Trust Agreement (hereinafter called the Equipment Trust Agreement) dated as of December 31, 1971, between Canada Permanent Trust Company, as Trustee (hereinafter called the Trustee) and The Canada Trust Company, as Owner-Trustee (hereinafter called the Lessor), (a copy of which has been delivered to the undersigned) pursuant to which the Lessor is partially financing the purchase of the units of railroad equipment (hereinafter called the Units) being leased by the Lessor to the undersigned pursuant to the Lease, and in consideration of other good and valuable consideration, the undersigned agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (which moneys are hereinafter called the Payments) due and to become due under the Lease in respect of the Units leased thereunder, directly to the Trustee, at 320 Bay Street, Toronto, Ontario, Canada (or at such other address as may be furnished in writing to the undersigned by the Trustee); and, if the undersigned fails for any reason whatsoever to pay to the Trustee any Payments, it will pay to the Trustee, on the respective dates and times set forth in the Lease on which the Payments are specified to be due thereunder, sums equivalent to the Payments which the undersigned shall not theretofore have paid to the Trustee; it being hereby agreed that the undersigned's obligation to pay all the aforesaid Payments or sums equivalent to the Payments is absolute and unconditional;

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

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

against, any liens, charges or claims of any nature whatsoever (other than liens, charges or claims created or incurred by the Trustee not arising out of the transactions contemplated by the Equipment Trust Agreement, the Lease or the Assignment) resulting from a breach by the undersigned of its obligations under the Lease, prior to or *pari passu* with the right of the Trustee to apply such Payments or sums equivalent thereto, as provided in the Assignment;

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

(5) the Lease shall not, without the prior written consent of the Trustee, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Lease, the Assignment or this Consent and Agreement or of any of the rights created by any thereof; and

(6) it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Purchase Agreement (as defined in the Equipment Trust Agreement), the Assignment and/or the Equipment Trust Agreement and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

In consideration of the premises, the Lessee's covenants aforementioned and other good and valuable consideration, the Trustee agrees to pay to the Lessee in accordance with Section 8.04 of the Equipment Trust Agreement any interest (in excess of accrued interest paid from Deposited Cash at the time of purchase) or other profit which may be realized from any sale or redemption of Investments (as defined in the Equipment Trust Agreement) on May 1, 1972 or on such earlier date as may be agreed upon by the Trustee and the Lessor, provided that the Lessor is not in default under the Equipment Trust Agreement and the Lessee is not in default under the Lease.

This Consent and Agreement, when accepted by the Trustee by signing the acceptance at the foot hereof, shall be deemed to be a contract under the

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

Dated as of December 31, 1971.

CANADIAN NATIONAL RAILWAY
COMPANY,

Approved
as to form only
[Signature]
Attorney

by *[Signature]*
Vice-President

[CORPORATE SEAL]

Attest:

[Signature]

[Signature]
Deputy Secretary

Accepted:

CANADA PERMANENT TRUST COMPANY
as Trustee,

[Signature]
by *[Signature]*
Assistant Vice-President

[Signature]
ASSOCIATE SECRETARY

PROVINCE OF QUEBEC }
CITY OF MONTREAL } ss.:

On this *17th* day of January, 1972, before me personally appeared *W. R. Carner*, to me personally known, who, being by me duly sworn, says that he is a Vice President of CANADIAN NATIONAL RAILWAY COMPANY, that the seal 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.

[Handwritten Signature]
Notary Public

My commission is for life.

[NOTARIAL SEAL]