

RECORDATION NO. 7752-A Filed & Record

DEC 26 1974 -4 20 PM

INTERSTATE COMMERCE COMMISSION

Lease of Railroad Equipment

Dated as of December 15, 1974

BETWEEN

FIRST NATIONAL BANK OF LOUISVILLE,

as Lessor

AND

THE DETROIT EDISON COMPANY,

as Lessee

LEASE OF RAILROAD EQUIPMENT

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THIS LEASE OF RAILROAD EQUIPMENT dated as of December 15, 1974 between First National Bank of Louisville, as Trustee (hereinafter, together with its successors and assigns, called "Lessor") under a Trust Agreement dated as of the date hereof (hereinafter called the "Trust Agreement") with American Fletcher Leasing Corporation, First Illinois Leasing Corporation and Trans Union Leasing Corporation (hereinafter called collectively "Owner"), and The Detroit Edison Company (hereinafter called "Lessee").

WITNESSETH:

Lessor, Owner, Lessee, The Detroit Bank and Trust Company, as Trustee (hereinafter, together with its successors and assigns, called "Security Trustee") under the Security Agreement referred to below and the loan participants named in Appendix I thereto (hereinafter called the "Loan Participants") have entered into a Finance Agreement dated as of the date hereof (hereinafter called the "Finance Agreement") providing for the several commitments of Owner and the Loan Participants in Owner's Cost (as therein defined) of the units of used standard-gauge railroad equipment (other than any unit which shall have suffered a Casualty Occurrence, as defined in Section 7, prior to the Closing Date, as defined in the Finance Agreement), which units (hereinafter called the "Units") are more particularly described in Annex A hereto. The commitments of the Loan Participants are to be evidenced by Lessor's 12 $\frac{7}{8}$ % Equipment Trust Notes (hereinafter called the "Notes") issued under and secured by the Security Agreement.

Concurrently with the execution and delivery of this Lease:

(a) Lessor, Security Trustee and Lessee are entering into a security agreement dated as of the date hereof (hereinafter called the "Security Agreement"), in substantially the form of Exhibit B to the Finance Agreement, pursuant to which Lessor will provide for the issue of the Notes and will assign its right, title and interest in and to the Units to Security Trustee as security for the Notes; and

(b) Lessor and Security Trustee will enter into an assignment of lease and agreement dated as of the date hereof (hereinafter called the "Lease Assignment"), in substantially the form of Exhibit D to the Finance Agreement, pursuant to which Lessor will assign certain of its rights in, to and under this Lease to Security Trustee as additional security for the Notes.

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 Lessee, Lessor hereby leases the Units to Lessee upon the following terms and conditions:

SECTION 1. *Net Lease.* This Lease is a net lease and 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 by reason of any past, present or future claims of Lessee against Lessor under this Lease or under the Finance Agreement; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the obligations of Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or the bankruptcy, reorganization or similar proceeding against Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by Lessee hereunder shall be final, and Lessee shall not seek to recover all or any part of such payment from Lessor for any reason whatsoever.

SECTION 2. *Lease of Units.* Immediately after the purchase thereof by Lessor in accordance with the Finance Agreement, each Unit shall be deemed to have been delivered to and accepted by Lessee hereunder and shall thereafter be subject to all the terms and conditions of this Lease. Notwithstanding the delivery to and acceptance by Lessee of the Units and their possession and use by Lessee hereunder, Lessor shall and does retain the full legal title to and property in all of the Units, it being expressly understood that this Lease is an agreement of lease only.

SECTION 3. *Rentals.* Lessee agrees to pay to Lessor, as rental for each Unit subject to this Lease, 22 consecutive semi-annual payments, commencing

on the Closing Date. The rental payment due on the Closing Date shall be in an amount equal to 8.25553% of Owner's Cost for each Unit then subject to this Lease as set forth in Annex A hereto. The next 21 semi-annual rental payments (hereinafter called the "Basic Rent") shall be payable on June 30 and December 30 in each year, commencing on June 30, 1975. The rental payment due on June 30, 1975 shall be in an amount equal to 7.35325% of Owner's Cost for each Unit then subject to this Lease, and each subsequent semi-annual rental payment shall be in an amount equal to 8.25553% of Owner's Cost of each Unit then subject to this Lease.

The Basic Rent is subject to adjustment pursuant to Section 17. If any of the semi-annual rental payment dates referred to above is not a Business Day (as defined below) the semi-annual rental payment otherwise payable on such date shall be payable on the next preceding Business Day.

In addition to the rental payments hereinabove provided for in this Section 3, Lessee agrees to pay to Lessor, on April 1, 1975, the amount of \$95,942.79, subject to adjustment in the event of a Casualty Occurrence prior to the Closing Date referred to in the first recital paragraph hereof (hereinafter called the "Interim Rent").

All payments provided for in this Lease shall be made in immediately available funds.

The term "Business Day" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois, Louisville, Kentucky or Detroit, Michigan are authorized or obligated to remain closed.

Lessee agrees that if for any reason whatsoever (i) any rental or other moneys payable by Lessee under this Lease (all such rentals and moneys being hereinafter in this paragraph collectively called "Rents") shall be diminished or subject to any diminution for any reason, or shall be subject to withholding at the source by reason of any taxes, assessments or liabilities of any character, foreseen or unforeseen, incurred by or against any person, including Lessor, or by reason of any claims, charges or liens of any nature, foreseen or unforeseen, incurred by any person, including Lessor, so that the Rents would thereby be rendered unavailable or would be less in amount than contemplated by this Lease, (ii) the payment in full of the Rents when the same are due and payable under this Lease shall be delayed, hindered or prevented or in any way adversely affected, (iii) the use or application of the Rents by Security Trustee shall be hindered, delayed or prevented or the right of Security Trustee to use or apply the same shall in

any way be adversely affected, (iv) Security Trustee shall refuse to apply the Rents as provided in the Security Agreement because of a threatened or pending suit in any court as a result of which Security Trustee in good faith considers it may have personal liability if it does apply the Rents or (v) the holders of the Notes issued by Lessor under the Security Agreement shall be subject to any liability or obligation to refund or pay over the Rents, then, in any such event, Lessee will promptly pay as additional rent under this Lease, and take any action and incur any additional expense that may be necessary to the proper application of, an amount sufficient to (x) pay fully and discharge or otherwise eliminate or nullify the cause of such diminution or withholding, (y) eliminate or prevent any delay, hindrance or obstacle in the payment in full of the Rents when the same are due and payable under this Lease and in the use or application thereof by Security Trustee and (z) protect fully the right of Security Trustee to use or apply the Rents, indemnifying Security Trustee against any personal liability which may arise from the application of the Rents and such holders against any liability or obligation to repay, or any loss in repaying, any moneys received from Security Trustee.

So long as any of the Notes are outstanding, Lessor irrevocably instructs Lessee to make all the payments (other than payments owing to Lessor or Owner pursuant to Sections 6, 7 (with respect to public liability insurance), 10, 17 and 21, which shall be made directly to Lessor) provided for in this Lease at the principal office of Security Trustee, for the account of Lessor, in care of Security Trustee, with instructions to Security Trustee first to apply such payments to satisfy the obligations of Lessor under the Security Agreement known to Security Trustee to be due and payable on the date such payments are due and payable hereunder and second, so long as no Default (as hereinafter defined) or Event of Default under the Security Agreement shall have occurred and be continuing, to pay any balance promptly to Lessor at such place as Lessor shall specify in writing, unless and until Lessor shall otherwise direct Security Trustee in writing. Lessee agrees that no payments shall be made to Lessor pursuant to Sections 6, 7 (with respect to public liability insurance), 10, 17 and 21 unless concurrently therewith Lessee shall pay to Security Trustee, for the account of Lessor, all amounts which are then due to Lessor under the other provisions of this Lease; and the making of such concurrent payment is of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, Lessor shall be entitled to a decree against Lessee requiring specific performance of the same.

SECTION 4. *Term of Lease.* The term of this Lease shall begin on the Closing Date and, subject to the provisions of Sections 7, 8, 11 and 14, shall terminate on December 30, 1985.

Anything herein to the contrary notwithstanding, upon the occurrence and during the continuance of an Event of Default hereunder, all rights of Lessee under this Lease and in and to the Units are subject to the rights of Security Trustee under the Security Agreement and the Lease Assignment.

SECTION 5. *Identification Marks.* Lessee will cause each Unit to be kept numbered with an identifying number as set forth in Annex A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will promptly affix and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Leased from First National Bank of Louisville, as Lessor and Trustee, and Ownership Subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by Lessor and/or Security Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect Lessor's and Security Trustee's title to and property in such Unit and the rights of Lessor under this Lease and of Security Trustee under the Security Agreement. Lessee will replace promptly any such markings which may be removed, defaced or destroyed. Lessee will not change the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with Security Trustee and Lessor and filed, recorded, registered and deposited by Lessee in all public offices where this Lease and the Security Agreement shall have been filed, recorded, registered and deposited and (ii) Lessee shall have furnished Security Trustee and Lessor an opinion of counsel for Lessee with respect thereto satisfactory to Security Trustee and Lessor.

Except as provided in the immediately preceding paragraph, Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Units may be lettered with the name or initials or other insignia customarily used by Lessee.

SECTION 6. *Taxes.* All payments to be made by Lessee hereunder will be free of expense to Lessor, Security Trustee and the Noteholders for collection or other charges and will be free of expense to Lessor, Security Trustee and the Noteholders with respect to the amount of any local, state,

federal or foreign taxes, license fees, assessments, charges, fines and penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called collectively "Impositions") hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title to the Units or otherwise under the terms hereof (including but not limited to a transfer resulting from a sale pursuant to Section 8 or 14) or the Finance Agreement, the Trust Agreement, the Security Agreement, the Lease or the Lease Assignment, all of which Impositions Lessee assumes and agrees to pay on demand in addition to the other payments to be made by it provided for herein; *provided*, that the foregoing agreement to pay Impositions shall not apply to the following, which shall not be deemed Impositions:

(i) federal income (including the minimum tax for tax preferences or any withholding tax) or other taxes, fees or charges imposed by the United States of America on, or based on or measured directly by, the net income of Lessor, and, to the extent that Lessor is entitled to or receives a credit with respect to any such tax, fee or charge, any foreign government income tax, fee or charge;

(ii) federal income or other taxes, fees or charges on, or based on or measured directly by, the net income of Lessor imposed by the United States of America (a) in addition to, or (b) in whole or in part in lieu of, or as a substitute or alternate for, any tax, fee or charge described in clause (i) above, but not to exceed any tax on net income that would otherwise be imposed pursuant to clause (i) above;

(iii) state and local taxes imposed on Lessor which are (a) taxes on engaging in business activities, employing capital or doing business or the privilege of doing business (whether or not imposed on, or based on or measured directly by, net income) or (b) imposed in whole or in part in lieu of, or as a substitute or alternate for, a tax described in subclause (a) of this clause (iii), but as to both subclauses (a) and (b) of this clause (iii) not to exceed such state and local taxes as either (x) are imposed by the jurisdiction in which the principal office of Lessor is located and any other jurisdiction in which Lessor is subject to taxation as the result of business, transactions or facts unrelated to this Lease or (y) if imposed by jurisdictions other than those described in subclause (x), result in a reduction of Lessor's liability for such taxes in any of the jurisdictions described in subclause (x);

(iv) any taxes, fees or other charges incurred by reason of any transfer by Lessor of any interest in the Units or any of them, the Trust Agreement or the Estate (as defined in the Trust Agreement) while no Event of Default (as defined in Section 11) has occurred and is continuing, other than a transfer resulting from a sale pursuant to Section 8 or 14;

(v) any taxes, fees or other charges on or with respect to the ownership or transfer of the Notes or revenues, receipts or earnings therefrom for which any Noteholder is liable; or

(vi) any taxes, fees or other charges on or based on or measured by any fees or compensation received by Security Trustee for services rendered in connection with the transactions contemplated hereby or by the Security Agreement or the Finance Agreement.

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 (except as provided above in this Section 6) or upon Lessor or Security Trustee solely by reason of its ownership thereof or its security interest therein, respectively, and will keep at all times all and every part of each Unit free and clear of all Impositions which might in any way affect the title of Lessor or result in a lien upon any such Unit; *provided, however*, that Lessee shall be under no obligation to pay any Imposition so long as it is contesting in good faith and by appropriate legal proceedings such Imposition and the nonpayment thereof does not, in the advance written opinion of Lessor and Security Trustee, adversely affect the title, property or rights of Lessor in or to the Units or hereunder or Security Trustee under the Security Agreement; and *provided further* that, prior to the occurrence of an Event of Default hereunder, if Lessee shall fail to pay any such Imposition or shall not contest the same, as above provided, Lessor may pay the same on behalf of Lessee, in which case Lessee shall reimburse Lessor for the amount expended on demand, together with interest thereon at the rate of 15% per annum or the maximum rate permitted by law, whichever is lower, from the date of expenditure to the date of reimbursement. If any Imposition shall have been charged or levied against Lessor directly and paid by Lessor, Lessee shall reimburse Lessor upon presentation of an invoice therefor.

In the event that Lessor shall become obligated to make any payment to Security Trustee or otherwise pursuant to any correlative provision of the Security Agreement not covered by the foregoing paragraph of this Section 6, Lessee shall pay such additional amounts (which shall also be deemed Impositions hereunder) to Lessor as will enable Lessor to fulfill completely its obligations pursuant to said provision.

In the event any reports with respect to Impositions are required to be made, Lessee will either make such reports in such manner as to show the interests of Lessor and Security Trustee in such Units or notify Lessor and Security Trustee of such requirement and make such reports in such manner as shall be satisfactory to Lessor and Security Trustee.

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

Any provision of this Section 6 to the contrary notwithstanding, Lessee shall bear any taxes of the types described in clause (iii) of the proviso in the first paragraph of this Section 6 imposed upon Lessor as an entity separate and apart from Owner unless, and to the extent that, such taxes upon Lessor reduce as a direct credit any tax liability which Lessor or Owner would otherwise be obligated to pay.

SECTION 7. *Payment for Casualty Occurrences; Insurance.* In the event that any Unit shall become worn out, lost, stolen, destroyed, irreparably damaged from any cause whatsoever or otherwise rendered permanently unfit for use, or shall be taken or requisitioned by condemnation or otherwise, except any requisition which by its express terms is for a period less than the term of this Lease or is for an indefinite period (such occurrences being hereinafter called "Casualty Occurrences"), during the term of this Lease (including any extended term) or while any Unit shall be held subject to Section 12 or 15, Lessee shall promptly and fully notify Lessor and Security Trustee with respect thereto. Lessee shall bear the risk of any Casualty Occurrence to any Unit. When any Unit shall have suffered a Casualty Occurrence, on the Basic Rent payment date next succeeding Lessee shall pay to Lessor an amount equal to the rental payment or payments in respect of such Unit or Units due and payable on such date, plus a sum equal to the Casualty Value of such Unit or Units as of the date of such payment in accordance with the schedule set out below. Upon (but not prior to) the making of such payment by Lessee in respect of any Unit, the rental for such Unit shall thereafter cease, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction, taking or requisition of such Unit) Lessor shall be entitled to recover possession of such Unit. Lessor hereby appoints Lessee as its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof at the best price obtainable on an "as is, where is" basis. If Lessee shall have previously paid the Casualty Value to Lessor, Lessee shall be entitled to the proceeds of such sale to the extent that such proceeds do not exceed the Casualty Value of such Unit, and shall pay any excess to Lessor.

Subject to adjustment pursuant to the provisions of Section 17, the Casualty Value of each Unit as of the rental payment date on which pay-

ment is to be made as aforesaid shall be that percentage of Owner's Cost of such Unit as is set forth in the following schedule opposite such date:

<u>Rental Payment Date</u>	<u>Percentage</u>	<u>Rental Payment Date</u>	<u>Percentage</u>
June 30, 1975.....	99.96%	June 30, 1981.....	68.94%
December 30, 1975.....	98.33	December 30, 1981.....	64.54
June 30, 1976.....	96.98	June 30, 1982.....	59.78
December 30, 1976.....	95.20	December 30, 1982.....	54.65
June 30, 1977.....	93.59	June 30, 1983.....	49.14
December 30, 1977.....	91.03	December 30, 1983.....	43.21
June 30, 1978.....	88.72	June 30, 1984.....	36.85
December 30, 1978.....	86.15	December 30, 1984.....	30.05
June 30, 1979.....	83.31	June 30, 1985.....	22.77
December 30, 1979.....	80.18	Thereafter.....	15.00
June 30, 1980.....	76.75		
December 30, 1980.....	73.01		

Except as hereinabove in this Section 7 provided, Lessee shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Unit.

Lessee will carry, at its own expense, with insurers of recognized responsibility: (i) all risk loss and physical damage insurance on the Units in amounts not less than the Casualty Value thereof from time to time determined in accordance with this Section 7, which insurance may contain a \$250,000 deductible provision for any one accident; and (ii) comprehensive public liability and property damage insurance in respect of the Units in an amount not less than \$25,000,000 for each occurrence, which insurance may contain a \$500,000 deductible provision for any one accident. Lessee shall cause each insurance policy obtained in satisfaction of the requirements of the preceding sentence to provide, and the insurer issuing such policy to certify to Lessor and Security Trustee, as follows:

(A) as to the insurance described in clause (i), that (1) Lessor, as owner and lessor of the Equipment, and Security Trustee are named as additional insureds as their respective interests may appear, (2) the proceeds of such insurance shall be payable, so long as the indebtedness secured by the Security Agreement shall not have been paid in full, to Security Trustee and thereafter to Lessor, (3) if the insurer cancels or materially changes such insurance for any reason whatsoever, or the same is allowed to lapse for nonpayment of premium, such cancellation, material change or lapse shall not be effective as to Lessor and Security Trustee for 30 days after receipt by Lessor and Security Trustee of notice from such insurer of such cancellation, material change or lapse and (4) in respect of the interest of Lessor

and Security Trustee in such policy, the insurance shall not be invalidated by any action or inaction of Lessee or any other person (other than of Lessor, Security Trustee or Owner, as the case may be) and shall insure the interest of Lessor and Security Trustee regardless of any breach or violation by Lessee of any warranties, declarations or conditions contained in such policy; and

(B) as to the insurance described in clause (ii), that (1) Lessor, each Owner, Security Trustee and each Noteholder (as defined in the Security Agreement) shall be named as additional insureds as their respective interests may appear, (2) all provisions of such policy, except the limits of liability, will operate in the same manner as if there were a separate policy covering each such additional insured, (3) if the insurer cancels or materially changes such insurance for any reason whatsoever, or the same is allowed to lapse for nonpayment of premium, such cancellation or lapse shall not be effective as to Lessor, any Owner, Security Trustee or any Noteholder for 30 days after receipt by Lessor, each Owner, Security Trustee and each Noteholder, respectively, of notice from such insurer of such cancellation or lapse, (4) in respect of the respective interests of Lessor, each Owner, Security Trustee and each Noteholder in such policy, the insurance shall not be invalidated by any action or inaction of Lessee or any other person (other than of Lessor, any Owner, Security Trustee or any Noteholder, as the case may be) and shall insure Lessor, each Owner, Security Trustee and each Noteholder regardless of any breach or violation of any warranties, declarations or conditions contained in such policy by Lessee or any other person (other than by Lessor, any Owner, Security Trustee or any Noteholder, as the case may be) and (5) shall be primary without rights of contribution from any other insurance which is carried by Lessor, any Owner, Security Trustee or any Noteholder to the extent that such other insurance provides it with contingent and/or excess liability insurance with respect to its interest as such in the Units.

Lessee shall deliver to Lessor and Security Trustee copies of each such insurance policy (or a certificate of insurance relating thereto) on the Closing Date and copies of each renewal policy (or a certificate or other evidence of insurance relating thereto) prior to the expiration of the original policy or preceding renewal policy, as the case may be, and Lessee shall notify Lessor and Security Trustee in writing of the status of such insurance 30 days prior to the expiration thereof in the event Lessee has not then delivered to Lessor and Security Trustee a renewal policy, or a certificate or other evidence of insurance relating thereto; and Lessee shall deliver to Lessor and Security Trustee receipts or other evidence that the premiums on all such policies have been paid. Any net insurance proceeds resulting from insurance carried

by Lessee or condemnation payments received by Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by Lessee to Lessor in respect of Casualty Occurrences pursuant to this Section 7. If Lessor shall receive any such net insurance proceeds or condemnation payments after Lessee shall have made payments pursuant to this Section 7 without deduction for such net insurance proceeds or such condemnation payments, Lessor shall pay such net insurance proceeds or condemnation payments to Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by Lessee unless an Event of Default or other event (hereinafter called a "Default") which, with notice, demand and/or lapse of time, would constitute such an Event of Default shall have occurred and be continuing, in which case the amount otherwise payable to Lessee may be retained by Lessor and applied to discharge the liabilities of Lessee under Section 11. The balance of such net insurance proceeds or condemnation payments shall remain the property of Lessor. All net insurance proceeds received by Lessor or Lessee with respect to a Unit not suffering a Casualty Occurrence shall be applied in payment of the cost of repairing the damage to such Unit, but no such proceeds shall be paid to Lessee until Lessor and Security Trustee shall have received a certificate signed by an authorized officer of Lessee to the effect that such damage has been fully repaired; and any balance remaining after the completion of such repairs shall be paid to Lessee unless an Event of Default or Default shall have occurred and be continuing, in which case the amount otherwise payable to Lessee may be retained by Lessor and applied to discharge the liabilities of Lessee under Section 11. Any condemnation payments received with respect to a Unit not suffering a Casualty Occurrence shall be the property of Lessor.

SECTION 8. *Voluntary Termination.* Unless an Event of Default or Default shall have occurred and be continuing hereunder, Lessee shall be entitled, at its option, upon at least 180 days' prior written notice to Lessor and Security Trustee, to terminate this Lease if Lessee shall have made a good faith determination that all (but not less than all) of the Units have become obsolete or economically unserviceable to Lessee's operations, which notice shall be accompanied by a certified copy of resolutions adopted by the Board of Directors of Lessee making such determination and a written statement of the President or a Vice President of Lessee setting forth a summary of the basis for such determination; *provided, however,* that such termination shall become effective only on a rental payment date (hereinafter in this Section 8 called the "Termination Date") and, in no event,

prior to December 30, 1980; and *provided further*, that such termination shall not take effect unless Lessee shall have fully complied with the succeeding paragraphs of this Section 8.

During the period from the giving of such notice to the Termination Date, Lessee, as agent for Lessor, shall use its best efforts to obtain bids for the purchase of all the Units on an "as is, where is" basis, and Lessee shall certify to Lessor in writing the amount of each bid received and the name and address of the person (who shall not be Lessee or any person, firm or corporation affiliated with Lessee) submitting such bid. An "affiliate" of Lessee shall mean any person which possesses, directly or indirectly, the right to vote at least 20% of the voting securities of Lessee, and any person which, directly or indirectly, controls or is controlled by or is under common control with Lessee, and "control" (including "controlled by" and "under common control with"), as used with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or control the direction of the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise. On the Termination Date, Lessor shall, without recourse or warranty (including, but not limited to, warranties relating to title), sell all the Units for cash to whomsoever shall have submitted the highest bid therefor (including Owner) prior to the Termination Date, and thereupon Lessee shall cause to be delivered the Units to Lessor in accordance with the terms of Section 15. If the sale of all the Units shall not occur on the Termination Date, Lessee shall not cause such delivery of the Units to Lessor; and this Lease shall continue in full force and effect. Lessor shall be under no duty to (but may) solicit bids, to inquire into the efforts of Lessee to obtain bids or otherwise to take any action in connection with any such sale other than as expressly provided in this Section 8.

The total sale price realized at any such sale of the Units shall be retained by Lessor and, concurrently therewith, Lessee shall pay to Lessor the excess, if any, of (i) the Casualty Value of the Units computed as of the Termination Date over (ii) the proceeds of such sale less all expenses incurred by Lessor in connection with such sale or with the collection or distribution of such payment. Lessee shall also be obligated to pay Lessor (x) any and all rentals and other sums due hereunder with respect to the Units up to and including the Termination Date and (y) the prepayment premium payable by Lessor pursuant to Section 5.02 of the Security Agreement. In the

event of such sale and compliance by Lessee with all the provisions of this Section 8, the obligations of Lessee to pay rental hereunder on all rental payment dates commencing after the Termination Date shall terminate.

SECTION 9. *Reports.* On or before March 31 in each year, commencing with the year 1976, Lessee will furnish to Lessor, Owner and Security Trustee an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Agreement, the amount, description and numbers of all Units that have suffered a Casualty Occurrence or are then undergoing repairs (other than running repairs) or have been withdrawn from use pending repairs (other than running repairs) during the preceding calendar year and such other information regarding the condition and state of repair of the Units as Lessor or Security Trustee may reasonably request and (b) stating that, in the case of all Units repaired or repainted during the period covered by such statement, the numbers and markings required by Section 5 and the Security Agreement have been preserved or replaced. Lessor and Security Trustee shall have the right, by their respective agents, to inspect the Units and Lessee's records with respect thereto at such reasonable times as Lessor or Security Trustee, as the case may be, may request during the term of this Lease.

As soon as available and in any event within 90 days after the end of each of its fiscal years, Lessee will deliver to Lessor and Security Trustee a certificate signed by the President, any Vice President, the Treasurer or any Assistant Treasurer of Lessee stating that a review of the activities of Lessee during such fiscal year has been made under his supervision with a view to determining whether Lessee has kept, observed, performed and fulfilled all of its covenants and obligations under this Lease and that, to the best of his knowledge, Lessee during such fiscal year has kept, observed, performed and fulfilled each and every covenant and obligation contained herein, or if there shall exist a Default or an Event of Default under this Lease specifying such Default or Event of Default and the nature and status thereof.

SECTION 10. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification.* **LESSOR LEASES THE UNITS, AS IS, IN WHATEVER CONDITION THEY MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS**

OR IMPLIED, BY EITHER LESSOR OR ANY OWNER, EACH EXPRESSLY DISCLAIMING ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY OF THE UNITS INCLUDING BUT NOT LIMITED TO THEIR VALUE, CONDITION, DESIGN OR OPERATION, (B) LESSOR'S TITLE THERETO, (C) LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, (D) THE DESIGN OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR (E) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN LESSOR AND LESSEE, ARE TO BE BORNE BY LESSEE. Lessee's execution of this Lease shall be conclusive evidence as between Lessee and Lessor that the Units described herein are in all of the foregoing respects satisfactory to Lessee, and Lessee will not assert any claim of any nature whatsoever against Lessor based on any of the foregoing matters.

Lessee agrees, for the benefit of Lessor and Security Trustee, to comply in all respects with all laws (including, without limitation, laws with respect to the use, maintenance and operation of each Unit) of the jurisdictions in which operations involving the Units may extend, with the interchange rules of the Association of American Railroads, with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units and with all provisions of the insurance policies carried by Lessee pursuant to Section 7; and in the event that such laws or rules require any alteration, replacement or addition of or to any part of any Unit, Lessee will conform therewith at its own expense; *provided, however*, that 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 Lessor or Security Trustee, adversely affect the property or rights of Lessor or Security Trustee under this Lease or under the Security Agreement.

Lessee shall pay all costs, expenses, fees and charges incurred in connection with the use and operation of the Units. Lessee, at its own cost and expense, shall maintain and service each of the Units so as to keep it in the same operating condition, order, repair and appearance as it was when it first became subject to this Lease, ordinary wear and tear excepted; and at all times during the term hereof such Unit shall be suitable for use

in interchange. Lessee, at its own cost and expense and within a reasonable period of time, shall also replace all parts of any Unit that may have become worn out, lost, destroyed or otherwise rendered permanently unfit for use with appropriate replacement parts, which shall be free and clear from any mortgage, lien, charge or encumbrance.

Lessee shall not, without the prior written consent of Lessor, affix or install any accessories or devices on any Unit if the same shall impair the originally intended function or use of such Unit. Any and all additions to any Unit, and any and all parts installed on and additions and replacements made to any Unit, shall constitute accessions to such Unit and ownership thereof, free from any lien, charge, security interest or encumbrance (except for those created by the Security Agreement or this Lease), shall immediately be vested in Lessor and Security Trustee as their respective interests appear in such Unit.

Lessee agrees to indemnify, protect and hold harmless Lessor, each Owner, Security Trustee and the Trust Estate from and against all losses, damages, injuries, liabilities, claims (including claims for negligence or strict liability in tort) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, penalties and interest, arising out of or as the result of (i) the entering into or the performance of the Finance Agreement, the Trust Agreement, the Security Agreement, this Lease or the Lease Assignment, the ownership of any Unit, the ordering, construction, acquisition, use, operation, condition (whether defects are latent or discoverable by Lessor or Lessee), maintenance, repair, replacement, purchase, delivery, rejection, lease, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage, sale or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in Section 15, (ii) any loss or damage to the Units, ordinary wear and tear excepted, (iii) any act or omission of Lessee when acting as agent or attorney-in-fact for Lessor hereunder, (iv) any failure of Lessee to comply with the second paragraph of this Section 10 or (v) any claims for patent infringement. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease.

Lessee agrees to prepare, deliver to Lessor for execution within a reasonable time prior to the required date of filing and file (or, to the extent per-

missible, to prepare for and file on behalf of Lessor directly) any and all reports (other than income tax returns) to be filed by Lessor with any federal, state or other regulatory authority by reason of the ownership by Lessor of the Units or the leasing thereof to Lessee.

SECTION 11. *Default.* If during the continuance of this Lease one or more of the following events (each such event being hereinafter sometimes called an "Event of Default") shall occur:

(A) default shall be made in payment of any part of the rent provided in Section 3, and such default shall continue for 10 Business Days;

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

(C) Lessee shall fail to maintain insurance in accordance with Section 7 or shall fail to maintain the Units substantially in accordance with Section 10, and such default shall continue for 30 days after written notice from Lessor to Lessee, Security Trustee and Owner specifying such default and demanding that the same be remedied;

(D) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of Lessee contained herein, and such default shall continue for 30 days after written notice from Lessor to Lessee, Security Trustee and Owner specifying such default and demanding that the same be remedied;

(E) any proceedings shall be commenced by or against Lessee for any relief under any bankruptcy or insolvency law, or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition or extension, and, if such proceedings have been commenced against Lessee, such proceedings shall not have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue) within 60 days after such proceedings shall have been commenced, or Lessee shall make a general assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due;

(F) an Event of Default shall occur and be continuing under the Lease of Railroad Equipment dated as of December 15, 1974 between Lessee and First National Bank of Louisville, as Trustee under a Trust Agreement dated as of December 15, 1974 with ChemLease Worldwide, Inc.;

(G) an Event of Default shall occur and be continuing under the Security Agreement;

(H) any representation or warranty made by Lessee in the Finance Agreement or this Lease shall prove to be false or misleading in any material respect as of the date made;

(I) default shall be made in the observance or performance of any covenant or agreement on the part of Lessee contained in the Finance Agreement, and such default shall continue for 30 days after written notice from Lessor to Lessee, Security Trustee and Owner specifying such default and demanding that the same be remedied;

(J) default shall occur in respect of any evidences of indebtedness of Lessee or under any agreement under which any bonds, notes or other evidences of indebtedness of Lessee may be issued, or under any covenant, provision or condition contained in the charter, articles of incorporation or similar instrument of Lessee, and such default shall continue for more than the period of grace, if any, therein specified or 30 days, whichever is less; or

(K) final judgment for the payment of money in excess of \$250,000 shall be rendered against Lessee and the same shall remain undischarged for a period of 30 days during which execution shall not be effectively stayed;

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

(1) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof, including net after-tax losses of federal and state income tax benefits to which Lessor would otherwise be entitled as a result of owning the Units and leasing the same to Lessee under this Lease; or

(2) by notice in writing to Lessee terminate this Lease, whereupon all rights of Lessee to the possession and use of the Units shall absolutely cease and terminate as though this Lease had never been made, but Lessee shall remain liable as hereinafter provided; and thereupon Lessor may, by its agents, enter upon the premises of Lessee or any other premises where any of the Units may be located and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of Lessee, or its successors or assigns, to use the Units for any purposes whatsoever; but Lessor shall, nevertheless, have a right to recover from Lessee any and all amounts which under the terms of this Lease may be then due or which may have

accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from Lessee (a) as damages for loss of the bargain and not as a penalty, whichever of the following sums, with respect to each Unit then subject to this Lease, Lessor, in its sole discretion, shall specify by written notice to Lessee: (x) an amount equal to the excess, if any, of the Casualty Value for such Unit, computed as of the rental payment date immediately preceding the Event of Default specified in such notice, over the Fair Market Rental (computed as provided in Section 14) of such Unit for the remainder of the term of this Lease after discounting such Fair Market Rental semi-annually to present value as of such preceding rental payment date at the rate of $13\frac{3}{8}\%$ per annum or (y) an amount equal to the excess, if any, of the Casualty Value for such Unit as of such preceding rental payment date over the Fair Market Value (computed as provided in Section 14) of such Unit as of such preceding rental payment date and (b) any damages and expenses, including reasonable attorneys' fees, in addition thereto which Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental.

It is expressly understood and agreed that upon the occurrence of any of the defaults or conditions described in clauses (A) through (K), both inclusive, of the first paragraph of this Section 11, and prior to the time that such default or condition shall constitute an Event of Default hereunder, either Lessor or Owner may make such payment or perform such other act as will cure such default or condition, and the amount of all payments by Lessor or Owner on behalf of Lessee, plus the amount of all reasonable expenses incurred in connection therewith, together with interest thereon at the rate of 15% per annum or the maximum rate permitted by law, whichever is lower, from the date of expenditure to the date of reimbursement, shall constitute additional rental payable hereunder from Lessee to Lessor on demand. The option of Lessor or Owner to cure a default described in clause (A) shall be limited to two full Basic Rent payments.

The remedies in this Lease provided in favor of Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. 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. 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 Lessee or on its behalf.

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

The foregoing provisions of this Section 11 are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

SECTION 12. *Return of Units upon Default.* If this Lease shall terminate pursuant to Section 11, Lessee shall forthwith deliver possession of the Units to Lessor and shall:

(a) forthwith place such Units upon such storage tracks as Lessor reasonably may designate until such Units have been sold, leased or otherwise disposed of by Lessor; and

(b) cause the same to be delivered to any carrier for shipment directed by Lessor.

The Units shall be returned in the condition in which they are required to be maintained by Lessee under Section 10, shall be maintained by Lessee, at its own cost and expense, in such condition during the period of storage provided for in this Section 12 and shall be insured by Lessee, at its own cost and expense, during such period of storage in accordance with Section 7; and at the time of such return and during such period of storage shall be kept free and clear of all liens, charges, security interests and encumbrances in accordance with Section 13. The assembling, delivery, storage and transporting of the Units as in this Section 12 provided shall be at the expense and risk of Lessee and are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, Lessor shall be entitled to a decree against Lessee requiring specific performance of the same. During any storage period, Lessee will permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same.

Without in any way limiting the obligations of Lessee under the foregoing provisions of this Section 12, Lessee hereby irrevocably appoints Lessor as the agent and attorney of Lessee, with full power and authority, at any time while Lessee is obligated to deliver possession of any Unit to Lessor, to demand and take possession of such Unit in the name and on behalf of Lessee from whomsoever shall be in possession of such Unit at the time.

SECTION 13. *Assignment; Possession and Use; Liens.* Lessor, or any assignee of Lessor, may at any time, without notice to or consent by Lessee, sell, assign, transfer, mortgage or otherwise encumber its interest under this Lease or in the Units, subject to the terms of this Lease and the rights of Lessee hereunder, and, upon receipt of written notice of any such assignment, Lessee shall recognize such assignment subject to the rights of Lessee against Lessor hereunder. No assignment or reassignment shall release Lessor from its obligations to Lessee under this Lease. Lessor agrees to deliver to Lessee a copy of each agreement evidencing any such sale, assignment, transfer, mortgage or other encumbrance, or the portion thereof which effects compliance with the provisions of this Section 13, as soon as practicable after the execution and delivery thereof. All the rights of Lessor hereunder (including, but not limited to, the rights under Sections 6, 7, 8, 11 and 17 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of Lessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively), but only to the extent assigned. Whenever the term "Lessor" is used in this Lease, it shall apply and refer to Lessor and Owner and each such assignee of Lessor and, where the context so requires (including, but not limited to, certain of the provisions of Sections 6, 7, 10, 11, 17 and 21), shall refer only to Owner. The term "Owner" as used herein shall include any member of any affiliated group of corporations which includes one or more of the persons named in the definition of such term and which file a consolidated federal income tax return.

So long as there shall exist no Default or Event of Default under this Lease, Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the Security Agreement, but, without the prior written consent of Lessor, Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any person which, if unpaid, might become a lien, charge,

security interest or other encumbrance (other than an encumbrance created by Lessor or Security Trustee or resulting from claims against Lessor or Security Trustee not related to the ownership of the Units) on or with respect to any Unit, including any accession thereto, or the interest of Lessor, Security Trustee or Lessee therein, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises; *provided, however*, that Lessee shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of Lessor or Security Trustee, adversely affect the title of Lessor in or to the Units or otherwise adversely affect its rights or the rights of Security Trustee under this Lease or the Security Agreement; *provided further*, that this covenant will not be breached by reason of the existence of liens for taxes, assessments or governmental charges or levies, in each case so long as not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent; and *provided further* that, prior to the occurrence of an Event of Default hereunder, if Lessee shall fail to pay any such claim or shall not contest the same, as above provided, Lessor may pay the same on behalf of Lessee, in which case Lessee shall reimburse Lessor for the amount expended on demand, together with interest thereon at the rate of 15% per annum or the maximum rate permitted by law, whichever is lower, from the date of expenditure to the date of reimbursement. Lessee shall not, without the prior written consent of Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as there shall exist no Default or Event of Default under this Lease, Lessee shall be entitled to the possession of the Units and to the use of the Units for a unit train to haul coal to any station owned or used by Lessee, but only upon and subject to all the terms and conditions of this Lease and the Security Agreement; *provided, however*, that (i) Lessee shall in all events use the Units in a careful and proper manner consistent with the use contemplated by the manufacturer thereof and solely in the business of Lessee and (ii) Lessee shall not assign or permit the assignment of any Unit to service involving the operation or maintenance thereof outside the continental United States of America (excluding Alaska).

SECTION 14. *Purchase and Renewal Options.* Provided this Lease has not been earlier terminated and there exists no Default or Event of Default hereunder, Lessee may (a) by written notice delivered to Lessor not less than six months prior to the end of the original term or any extended term of this Lease, as the case may be, elect to purchase all, but not less than all, of the Units then covered by this Lease at the end of the original term or any such extended term for a purchase price equal to the "Fair Market Value" (as hereinafter defined) of such Units as of the end of the original term or any such extended term or (b) by written notice delivered to Lessor not less than six months prior to the end of the original term or the extended term of this Lease, as the case may be, elect to extend the term of this Lease in respect of all of such Units then covered by this Lease for an additional three-year period commencing on the scheduled expiration of the original term or the extended term of this Lease, as the case may be. In the event that the term of this Lease is extended pursuant to the preceding sentence, Lessee shall pay rentals at the "Fair Market Rental" (as hereinafter defined) of such Units in semi-annual payments in advance on June 30 and December 30 in each year of such extended term; and all of the other terms of this Lease shall be applicable during any extended term, except that the Casualty Values of the Units shall be calculated by taking into consideration the then Fair Market Value of the Units (both at the beginning and end of the extended term), Lessor's then after-tax yield requirements and the then prevailing interest rates, but in no event, however, shall such Casualty Values be less than 15% of Owner's Cost for the Units.

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 (other than a lessee currently in possession or 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. Fair Market Rental 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 lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or before four months prior to the expiration of the term of this Lease, Lessor and Lessee are unable to agree upon a determination of the Fair Market Value or the Fair Market Rental, as the case may be, of the relevant Units, such value or rental

shall be determined in accordance with the foregoing definitions by a qualified independent Appraiser. The term "Appraiser" shall mean such independent appraiser as Lessor may select with the approval of Lessee, or, failing such approved selection, a panel of three independent Appraisers, one of whom shall be selected by Lessor, the second by Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to Lessor and Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fees of the Appraiser shall be borne by Lessee.

Upon payment of the purchase price on the date of the expiration of the original term or, in the case of an extension hereof, the applicable extended term of this Lease, Lessor shall, upon request of Lessee, execute and deliver to Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all liens, charges, security interests and other encumbrances by or in favor of any person claiming by, through or under Lessor other than such liens, charges, security interests and other encumbrances which Lessee is obligated to discharge hereunder) for such Units, and such other documents as may be required to release such Units from the terms and scope of this Lease and to transfer title thereto to Lessee, or such assignee or nominee, in such form as may reasonably be requested by Lessee, all at Lessee's expense.

SECTION 15. *Return of Units upon Expiration of Term.* As soon as practicable on or after the expiration of the original or any extended term of this Lease in the event the Units are not purchased pursuant to Section 14, Lessee will, at its own cost and expense, at the request of Lessor, deliver such Units to Lessor upon such storage tracks as Lessor may reasonably designate, or, in the absence of such designation, as Lessee may select, and store such Units on such tracks for a period not exceeding three months and cause the same to be delivered, at any time within such three-month period, to any reasonable place directed by Lessor. The Units shall be returned in the condition in which they are required to be maintained by Lessee under Section 10, shall be maintained, by Lessee, at its own cost and expense, in such condition during the period of storage provided for in this Section 15 and shall be insured by Lessee, at its own cost and expense, during such period of storage in accordance with Section 7; and at the time of such

return and during such period of storage shall be kept free and clear of all liens, charges, security interests and encumbrances in accordance with Section 13. The movement and storage of such Units shall be at the expense and risk of Lessee; and in the event that any Unit shall suffer a Casualty Occurrence during such storage period, Lessee shall pay Lessor the Casualty Value thereof set forth in Section 7. During any such storage period, Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Units, may inspect the same; *provided, however*, that Lessee shall not be liable, except in the case of negligence of Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of Lessor or any prospective purchaser, the right of inspection granted under this sentence. The assembling, delivery, storage, maintenance and transporting of the Units as in this Section 15 provided are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, Lessor shall be entitled to a decree against Lessee requiring specific performance of the same. If Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease Lessor shall deem to have suffered a Casualty Occurrence, it may deliver written notice to such effect to Lessee and Lessee shall thereupon assume and hold Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. Lessor shall execute and deliver to Lessee a bill of sale and other documents, as specified in the last paragraph of Section 14, with respect to any Unit so abandoned. Lessee shall have no liability to Lessor in respect of any Unit abandoned by Lessor after termination of this Lease; *provided, however*, that this sentence shall not in any way relieve Lessee of its obligations pursuant to Section 7 to make payments equal to the Casualty Value of any Unit experiencing a Casualty Occurrence while this Lease is in effect or during the storage period provided for in this Section 15.

SECTION 16. *Recording.* Lessee, at its own expense, will cause this Lease, the Lease Assignment and the Security Agreement, and any amendments or supplements hereto or thereto, and any further assignments hereof and thereof, to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act, and Lessee will undertake the filing, registering, depositing and recording required of Lessor under the Security Agreement and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record (and will re-file, re-

register, re-deposit or re-record whenever required) any and all further instruments required by law or reasonably requested by Lessor or Security Trustee for the purpose of proper protection, to their satisfaction, of Lessor's and Security Trustee's respective interests in the Units, or for the purpose of carrying out the intention of and their respective rights under this Lease, the Lease Assignment and the Security Agreement; and Lessee will promptly furnish to Lessor and Security Trustee evidence of all such filing, registering, depositing and recording and an opinion or opinions of counsel for Lessee with respect thereto satisfactory to Lessor and Security Trustee. This Lease, the Lease Assignment and the Security Agreement shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

SECTION 17. *Federal Income Taxes.* In entering into the Finance Agreement and the transactions contemplated thereby, it is the intention of Owner and Lessee that such transactions will result in the following federal income tax consequences:

- (a) this Lease constitutes a lease;
- (b) Lessor is lessor and Lessee is lessee under this Lease;
- (c) the trust created by the Trust Agreement will be treated as a partnership under the Internal Revenue Code of 1954, as amended (the "Code");
- (d) Owner is entitled to deduct the interest payable by Lessor on the Notes in computing its taxable income ("Interest Deductions");
- (e) in computing its taxable income, Owner is entitled to depreciate the Units in accordance with such depreciation method as is available to an owner of used property pursuant to Section 167 of the Code; and
- (f) in computing its taxable income, Owner is entitled to depreciate the full Owner's Cost of the Units in accordance with the provisions of Section 167(m) of the Code (hereinafter called the "Class Life Deduction") for an asset depreciation period of 12 years using the 150% declining balance method through December 31, 1978 and the straight line method thereafter, and the Units may be so depreciated down to 5% of Owner's Cost thereof at the end of said 12-year period ("Depreciation Deductions").

Lessee agrees that, as between Owner and Lessee, Owner, as the owner of the Units, shall be entitled to the Interest Deductions and the Depreciation Deductions (hereinafter called the "Tax Benefits"). Lessee agrees that neither it nor any corporation controlled by it, in control of it or under common control with it, directly or indirectly, will at any time take any

action or file any returns or other documents inconsistent with the foregoing and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent expressed in this Section 17. Lessee agrees to keep and make available for inspection and copying by Owner such records as will enable Owner to determine whether it is entitled to the Tax Benefits and the amounts thereof.

Lessee further agrees that:

(a) at the time Owner becomes the owner of the Units, the Units will constitute property eligible for the Class Life Deduction; and

(b) by not later than the Closing Date, an officer of Lessee shall deliver an opinion satisfactory in form and substance to Owner that the Units will have a useful life of at least 13 years and a value of at least 15% of Owner's Cost thereof at the end of the original term of this Lease.

If for any reason (except solely as a direct result of the occurrence of any "Excluded Event" set forth below) in any taxable year or years any one or more of the Tax Benefits shall be denied, disallowed or otherwise prohibited, or recaptured, in whole or in part, to Owner with respect to all or part of any Unit, then Lessee shall pay to Lessor, on each of the dates provided in this Lease for the payment of Basic Rent hereunder, such sums (taking into account all taxes required to be paid by Owner on the payment of such sums under the laws of the United States of America or any political subdivision thereof, calculated on the assumption that the federal, state and local taxes of Owner computed by reference to net income or excess profits are based on the then effective federal tax rate for corporations and the highest effective state and local income tax and/or excess profit tax rates generally applicable to Owner (giving effect to any applicable surtax and/or any tax or charge relating thereto), including penalties and interest, but after deducting from any such then effective federal tax rate for corporations of the amount of any such state and local taxes) in addition to the rental installments then due as shall be necessary, in the reasonable opinion of Owner, to cause the discounted after-tax rate of return (to be based on a 48% effective federal tax rate and the highest effective state and local income tax and/or excess profit tax rates generally applicable to Owner [such rates as so calculated are hereinafter called the "Assumed Rates"])

of Owner under this Lease to be equal to the discounted after-tax rate of return (taxes being calculated at the Assumed Rates) that would have been available to Owner under this Lease, if the Tax Benefits had been allowed in full; *provided, however*, that Lessee shall not be required to make the payment of such sums to the extent (and only to the extent) that the Tax Benefits shall have been denied, disallowed or otherwise prohibited, or recaptured, in whole or in part, to Owner with respect to all or part of such Unit solely as a direct result of the occurrence of any of the following events (hereinafter called "Excluded Events"):

(i) a Casualty Occurrence with respect to such Unit, if Lessee shall have paid to Lessor the amounts stipulated pursuant to Section 7;

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

(iii) an amendment of the Security Agreement without the prior written consent of Lessee;

(iv) the failure of Owner to claim the Interest Deductions or the Depreciation Deductions, as applicable, in its federal income tax return for the appropriate year, unless the failure to claim any of such deductions is based on an opinion of its independent tax counsel or independent certified public accountants that such deduction may not reasonably be claimed, or the failure of Owner to follow proper procedure in claiming any of such deductions (but for this purpose any procedure approved in writing by Lessee or not objected to in writing by Lessee within 30 days after written notice from Lessor shall in any event be deemed a proper procedure);

(v) the failure of Owner to have sufficient income to benefit from the Interest Deductions or the Depreciation Deductions, as applicable; or

(vi) any change in or modification of tax law (including, without limitation, any change in or modification of any applicable Treasury Regulations, Revenue Rulings or Revenue Procedures) which occurs after the Internal Revenue Service has issued the Ruling referred to in Section 21.

In the event that this Lease is terminated with respect to any Unit prior to the time Lessee is obligated to make payments to Lessor pursuant to this Section 17, then Lessee shall pay to Lessor on the next June 30 or

December 30 following the date on which the event giving rise to indemnification arises, such lump sum (calculated in the same manner as set forth in the preceding sentence) as shall be necessary, in the reasonable opinion of Owner, to cause the discounted after-tax rate of return (taxes being calculated at the Assumed Rates) of Owner in respect of such Unit to be equal to the discounted after-tax rate of return (taxes being calculated at the Assumed Rates) that would have been available to Owner under this Lease if the Tax Benefits had been allowed in full.

In the event a claim shall be made by the Internal Revenue Service that a Tax Benefit should be denied or disallowed, or recaptured, Owner agrees to take such action in connection with contesting such claim as Lessee shall reasonably request from time to time, including administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such claim, and proceedings in the appropriate United States District Court, United States Court of Claims or the United States Tax Court, including such appeals as are allowable from each such proceeding. Owner shall select, in its sole discretion, the forum for contesting the denial of the Tax Benefits, considering, however, in good faith such request as Lessee shall make concerning the manner of contesting the denial, including the most appropriate forum in which to proceed; provided that:

(a) within 30 days after notice by Owner to Lessee of such claim, Lessee shall make request that such claim be contested;

(b) prior to taking such action, Lessee shall have furnished Owner with an opinion of Lessee's tax counsel to the effect that a meritorious ground exists for resisting such claim and describing such ground; and

(c) Lessee shall have indemnified Owner in a manner satisfactory to it for any liability or loss which it may incur as the result of contesting such claim and shall have agreed to pay Owner on demand all costs and expenses which Owner may incur in connection with contesting such claim, including, without limitation, (i) reasonable attorneys' and accountants' fees and disbursements, (ii) the amount of any interest and penalties which may ultimately be payable to the United States Government as the result of contesting such claim and (iii) in the event Owner shall pay the tax claimed and then seek a refund, interest at the rate of 15% per annum on the amount so expended for the period during which Owner has so advanced such funds.

If any such claim referred to above shall be made by the Internal Revenue Service, and Lessee shall reasonably have requested Owner to contest such claim as above provided and shall have duly complied with all of the terms

of this Section 17, Lessee's liability under this Section 17 with respect to the denial or disallowance of such Tax Benefit shall become fixed upon final determination of Owner's liability for the tax claimed, after giving effect to any refund obtained together with interest thereon. In the event Lessee does not request Owner to contest such claim as provided in this Section 17, the liability of Lessee under this Section 17 shall become fixed to Owner at the time Owner makes payment of the tax attributable to the denial or disallowance of such Tax Benefit. In the event any such claim is contested, Owner shall prosecute such contest diligently and in good faith and shall keep Lessee informed of the status thereof. Notwithstanding any provision to the contrary in this Section 17, Owner may elect not to contest any such claim and thereupon Lessee shall be relieved of all liability to indemnify Owner with respect to the Tax Benefits involved in respect of such claim; and Owner shall reimburse Lessee for all amounts, including interest at the rate of 15% per annum on all amounts paid by Lessee under this Section 17 in connection with such contesting.

In the event the rental rates shall be adjusted as in this Section 17 provided, the Casualty Values set forth in Section 7 and the damages and amounts set forth in subparagraph (1) of the first paragraph of Section 11 shall be adjusted accordingly. Any such adjustment in Casualty Values shall be effective retroactive to the Closing Date.

SECTION 18. *Interest on Overdue Rentals.* Anything herein to the contrary notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of Lessee promptly to pay, to the extent legally enforceable, an amount equal to 15% per annum or the maximum rate permitted by law, whichever is lower, of the overdue rentals and other obligations for the period of time during which they are overdue. Such interest shall be computed on the basis of a 360-day year of twelve 30-day months.

SECTION 19. *Notices.* Any notice hereunder to any of the persons designated below shall be deemed to have been properly served if delivered personally or if mailed, certified mail postage prepaid, at the following specified addresses:

- (a) To Lessor, P.O. Box 1019, Louisville, Kentucky 40201, Attention of Corporate Trust Department, with a copy to Owner;
- (b) To Lessee, 2000 Second Avenue, Detroit, Michigan 48226, Attention of Manager of Finance;
- (c) To American Fletcher Leasing Corporation, 100 South Wacker Drive, Chicago, Illinois 60606, attention of General Counsel;

(d) To First Illinois Leasing Corporation, P.O. Box 712, Evanston, Illinois 60204, attention of Mr. Owen M. Lynch, President;

(e) To Trans Union Leasing Corporation, 111 West Jackson Boulevard, Chicago, Illinois 60604, attention of Mr. R. D. Ringe, President;

or to such other address as may have been furnished in writing by such person to the other parties to this Agreement.

SECTION 20. *Payment of Expenses.* Lessee agrees to pay the expenses assumed by it in the Finance Agreement.

SECTION 21. *Required Purchase of Units by Lessee.* (a) If prior to September 30, 1975 or six months after filing for the Ruling referred to below, whichever is later, the Internal Revenue Service for any reason whatsoever shall not have issued to Lessor and Lessee a favorable tax ruling (hereinafter called the "Ruling") to the effect set forth in clauses (a) through (e), inclusive, of the first paragraph of Section 17 and to the effect that payments by Lessee hereunder for the use of the Units constitute rent and are deductible by Lessee pursuant to Section 162(a)(3) of the Code, Lessee shall purchase by October 30, 1975, or within six months after such filing, whichever is later (or in the event Lessor is notified prior to September 30, 1975 or the end of such six month period, as the case may be, that the Ruling will not be issued, within 30 days of such earlier date), all of Owners' beneficial interest under the Trust Agreement (and each Owner shall convey to Lessee all of its rights, titles and interests thereunder) for an amount equal to the sum of (w) 20% of Owner's Cost of the Units, (x) Lessor's reasonable out-of-pocket fees and expenses incurred in connection with the transactions contemplated by the Finance Agreement (including without limitation brokerage commissions (including Halsey, Stuart & Co. Inc.), printing expenses and attorneys' and accountants' fees) and (y) interest on the amounts set forth in the preceding clauses (w) and (x) at the rate of 16% per annum from the date such amounts were paid or incurred by Lessor, less (z) any rental or Casualty Payment theretofore paid by Lessee which has not been applied by Lessor to the payment of principal or interest on the Notes or is not then owing with respect thereto. In the event of such purchase, Lessee shall assume concurrently the obligations of Owners under the Trust Agreement and of Lessor under the Security Agreement, this Lease and the Lease Assignment by instrument or instruments acceptable to Owners, Lessor and Security Trustee.

(b) If for any reason whatsoever, except by reason of any business or operations of Owner or Lessor unrelated to the transactions contemplated by this Lease, the Finance Agreement, the Trust Agreement, the Security

Agreement or the Lease Assignment, the execution, delivery or performance by Owner or Lessor of any of such instruments should require the consent or approval of, the giving of notice to, the registration with or the taking of any other action by Owner or Lessor in respect of: (i) the Interstate Commerce Commission under the Interstate Commerce Act, except for the filing and recording contemplated by Section 16, (ii) the Federal Power Commission under the Federal Power Act or (iii) the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935, then Lessee shall, on 30 days' written notice from Owner requiring the same, purchase all of Owner's beneficial interest under the Trust Agreement (and each Owner shall convey to Lessee all of its rights, titles and interests thereunder) for an amount equal to (y) the Casualty Value of the Units then subject to this Lease computed as of the rental payment date immediately preceding the date of such purchase, less (z) the Unamortized Debt Commitment for such Units. In the event of such purchase, Lessee shall assume concurrently the obligations of Owner under the Trust Agreement and of Lessor under the Security Agreement, this Lease and the Lease Assignment by instrument or instruments acceptable to Owner, Lessor and Security Trustee.

SECTION 22. Severability; Effect and Modification of Lease. Any provision of this Lease prohibited or unenforceable by any applicable law of 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. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by Lessee to the full extent permitted by law, to the end that this Lease shall be enforced as written.

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

All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Lease. All references herein to Sections, paragraphs, clauses and other subdivisions refer to the designated Sections, paragraphs, clauses and other subdivisions of this Lease; and the words "herein", "hereof", "hereunder" and words of similar import refer to

this Lease as a whole and not to any particular Section, paragraph, clause or other subdivision hereof.

SECTION 23. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Michigan; *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording, registering or depositing, if any, of this Lease and the Lease Assignment as shall be conferred by the laws of the several jurisdictions in which this Lease or the Lease Assignment shall be filed, recorded, registered or deposited.

SECTION 24. *Further Assurances.* Lessee agrees that at any time and from time to time, after the execution and delivery of this Lease, it shall, upon request of Lessor, execute and deliver such further documents and do such further acts and things as Lessor may reasonably request in order fully to effect the purposes of this Lease, including, but not limited to, any and all information necessary to enable Lessor to properly complete and file any and all state or political subdivision thereof income tax returns in connection herewith. Without limiting the generality of the foregoing, Lessee shall cause this Lease to be kept, and/or any UCC-1's to be filed and recorded, in such places as Lessor may reasonably request in order to perfect and preserve Lessor's rights hereunder.

SECTION 25. *Modification, Waiver and Consent.* Any modification or waiver of any provision of this Lease, or any consent to any departure by Lessee therefrom, including any sublease of the Units, shall not be effective in any event unless the same is in writing and signed by Lessor, and then such modification, waiver or consent shall be effective only in the specific instance and for the specific purpose given. Any notice to or demand on Lessee in any event not specifically required of Lessor hereunder shall not entitle Lessee to any other or further notice or demand in the same, similar or other circumstances unless specifically required hereunder.

Anything herein or in the Security Agreement to the contrary notwithstanding, Lessee shall not agree to any reduction in the Basic Rent or any delay in the time of payment thereof without the express written approval of Owner.

SECTION 26. *Binding Effect.* This Lease shall be binding upon and shall inure to the benefit of the respective successors and assigns of Lessee and Lessor.

SECTION 27. *Use of Units Beyond Lease Term.* If Lessor permits the use of any Unit beyond the term of lease with respect thereto, the obligations of Lessee hereunder shall continue; *provided, however,* that such permissive use shall not be construed as a renewal of such term of lease nor as a waiver of any right or continuation of any obligation of Lessor hereunder, and Lessor may take possession of such Unit at any time upon demand.

SECTION 28. *Limitation of Liability.* It is expressly understood and agreed by and between Lessor and Lessee that this Lease is executed by First National Bank of Louisville, not individually or personally but solely as Trustee under the Trust Agreement in the exercise of the power and authority conferred and vested in it as such Trustee (and First National Bank of Louisville hereby warrants that it possesses full power and authority to enter into and perform this Lease); it is further understood and agreed that, except as otherwise expressly provided herein or in the Finance Agreement and except in the case of gross negligence or wilful misconduct of Lessor for which Lessor alone shall be liable, nothing herein contained shall be construed as creating any liability on First National Bank of Louisville individually or personally or Owner to perform any covenant contained herein, all such liability being expressly waived by Lessee; and so far as First National Bank of Louisville or Owner is concerned, Lessee shall look solely to the Estate (as defined in the Trust Agreement) for the performance of the obligations of Lessor herein.

SECTION 29. *Rights, Remedies and Powers.* Each and every right, remedy and power granted to Lessor hereunder shall not be exclusive but shall be cumulative and in addition to any other right, remedy or power herein specifically granted or now or hereafter existing in equity, at law, by virtue of statute or otherwise and may be exercised by Lessor from time to time concurrently or independently and as often and in such order as Lessor may deem expedient. Any failure or delay on the part of Lessor in exercising any such right, remedy or power, or abandonment or discontinuance of steps to enforce the same, shall not operate as a waiver thereof or affect Lessor's right thereafter to exercise the same, and any single or partial exercise of any such right, remedy or power shall not preclude any other or further exercise thereof or the exercise of any other right, remedy or power. In the event Lessor shall have proceeded to enforce any such right, remedy or power and such proceeding shall have been determined adversely to Lessor, then in such event Lessee and Lessor shall be restored to

their former positions and the rights, remedies and powers of Lessor shall continue as if no such proceeding had been taken.

SECTION 30. *Execution.* This Lease may be executed in any number of counterparts, but the counterpart delivered to Security Trustee shall be deemed to be the original counterpart. Although this Lease is dated as of December 15, 1974 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.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Lease 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.

FIRST NATIONAL BANK OF LOUISVILLE,
OWNER TRUSTEE, *as Lessor*

(CORPORATE SEAL)

By... *Dennis W. Welch*.....
Vice President and Trust Officer

Attest:

W. A. Jackson, Jr......
Trust Officer

THE DETROIT EDISON COMPANY,
as Lessee

(CORPORATE SEAL)

By... *Robert W. Gustafson*.....
Senior Executive Vice President—
Finance and Corporate Affairs

Attest:

Frank M. Kehoe
Secretary

STATE OF KENTUCKY }
COUNTY OF JEFFERSON } SS

On this 26TH day of December, 1974, before me personally appeared DENNIS W. WEIHE , to me personally known, who, being by me duly sworn, says that he is a Vice President and Trust Officer of First National Bank of Louisville, that one of the seals affixed to the foregoing instrument is the corporate seal of said association and that said instrument was signed and sealed on behalf of said association by authority of its By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Ruth B. Mabe
Notary Public

(NOTARIAL SEAL)

My Commission Expires Dec 14, 1975

STATE OF MICHIGAN }
COUNTY OF WAYNE } SS

On this 23rd day of December, 1974, before me personally appeared ROBERT W. HARTWELL , to me personally known, who, being by me duly sworn, says that he is the Senior Executive Vice President—Finance and Corporate Affairs of The Detroit Edison Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jewel L. Gardner
Notary Public

(NOTARIAL SEAL)

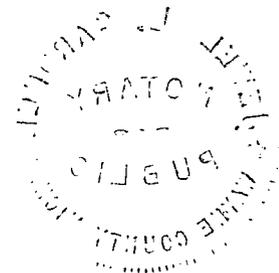
JEWEL L. GARDNER
Notary Public, Wayne County, Mich.

My Commission Expires 1-17-76

Annex A
Lease of Railroad Equipment

DESCRIPTION OF UNITS

<u>Type</u>	<u>Quan- tity</u>	<u>Unit Numbers (Both Inclusive)</u>	<u>Owner's Cost per Unit</u>	<u>Owner's Cost Total</u>
100 Ton (3850 cubic feet) high side steel rotary dump gondola cars; Dispatch Shops, manufacturer	93	DEEX 101-140 142-160 162-174 176-196	\$15,460	\$1,437,780
100 Ton (3850 cubic feet) high side steel rotary dump gondola cars; Thrall Car Manufacturing Company, manufacturer.....	5	DEEX 301-305	18,052	90,260
125 Ton (5160 cubic feet) aluminum bodied, steel underframe high side rotary dump gondola cars; Fruehauf Railcar Division, manufacturer (rotary coupler).....	39	Odd Consecutively Numbered Cars in the Series, DEEX 1001-1041 1045-1079	23,000	897,000
125 Ton (5160 cubic feet) aluminum bodied, steel underframe high side rotary dump gondola cars; Fruehauf Railcar Division, manufacturer (fixed coupler).....	39	Even Consecutively Numbered Cars in the Series DEEX 1002-1012 1016-1080	22,920	893,880
125 Ton (5160 cubic feet) aluminum bodied, steel underframe high side rotary dump gondola cars; Fruehauf Railcar Division, manufacturer (rotary coupler).....	39	Odd Consecutively Numbered Cars in the Series DEEX 2001-2015 2019-2029 2033-2061 2065-2083	24,030	937,170
125 Ton (5160 cubic feet) aluminum bodied, steel underframe high side rotary dump gondola cars; Fruehauf Railcar Division, manufacturer (fixed coupler).....	39	Even Consecutively Numbered Cars in the Series DEEX 2002-2078	23,930	933,270
125 Ton (5160 cubic feet) aluminum bodied, steel underframe high side rotary dump gondola cars; Fruehauf Railcar Division, manufacturer (rotary coupler).....	37	Odd Consecutively Numbered Cars in the Series DEEX 3001-3013 3017-3075	24,370	901,690
125 Ton (5160 cubic feet) aluminum bodied, steel underframe high side rotary dump gondola cars; Fruehauf Railcar Division, manufacturer (fixed coupler).....	36	Even Consecutively Numbered Cars in the Series DEEX 3002-3052 3056-3074	24,250	873,000
3000 h.p. Model SD 40 diesel electric locomotive units (with locotrol); General Motors Corporation (Electro-Motive Division), manufacturer.....	2	DE-001 DE-002	325,000	650,000



DESCRIPTION OF UNITS (Continued)

<u>Type</u>	<u>Quantity</u>	<u>Unit Numbers (Both Inclusive)</u>	<u>Owner's Cost per Unit</u>	<u>Owner's Cost Total</u>
3000 h.p. Model SD 40 diesel electric locomotive unit (without locotrol); General Motors Corporation (Electro-Motive Division), manufacturer.....	1	DE-005	\$295,000	\$ 295,000
3000 h.p. Model U30C diesel electric locomotive units (with locotrol); General Electric Company, manufacturer.....	2	DE-007 DE-008	360,000	720,000
3000 h.p. Model U30C diesel electric locomotive unit (without locotrol); General Electric Company, manufacturer.....	1	DE-011	350,000	350,000
3000 h.p. Model SD 40 diesel electric locomotive unit (with locotrol); General Motors Corporation (Electro-Motive Division); manufacturer.....	1	DE-013	340,000	340,000
3000 h.p. Model SD 40 diesel electric locomotive units (without locotrol); General Motors Corporation (Electro-Motive Division), manufacturer.....	2	DE-015 DE-016	340,000	680,000
Total.....				<u>\$9,999,050</u>