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INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of December 1, 1974

among

LOUISVILLE AND NASHVILLE RAILROAD COMPANY,

EXCHANGE NATIONAL BANK OF CHICAGO,
as Trustee under a Trust Agareement dated as of
the date hereof with American Road Equity Corporation

and

GENERAL ELECTRIC COMPANY

CONDITIONAL SALE AGREEMENT dated as of December 1, 1974, among the corporation named in Item 1 of Annex A hereto (hereinafter called the Vendor or Builder as more particularly set forth in Article 1 hereof), EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association, acting as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with American Road Equity Corporation, a Delaware corporation (said bank, so acting, being hereinafter called the Vendee and said corporation being hereinafter called the Beneficiary), and LOUISVILLE AND NASHVILLE RAILROAD COMPANY, a Kentucky corporation (hereinafter called the Lessee).

WHEREAS the Builder agrees to construct, sell and deliver to the Vendee, and the Vendee agrees to purchase, subject to the terms and conditions hereof, the railroad equipment described in Annex B hereto (hereinafter called the Equipment); and

WHEREAS the Vendee and the Lessee are entering into a conditional sale agreement (hereinafter called the Other Agreement) dated as of the date hereof with the party named in Item 6 of Annex A hereto; and

WHEREAS the Vendee is entering into a lease dated as of the date hereof with the Lessee in substantially the form annexed hereto as Annex C (hereinafter called the Lease) and the Lessee is willing to guarantee to the Vendor the due and punctual payment of certain sums payable by, and the due and punctual performance of all other obligations of, the Vendee under this Agreement as provided in Article 8 hereof; and

WHEREAS American National Bank and Trust Company of Chicago (hereinafter called the Assignee) is acting as agent for certain investors pursuant to the Finance Agreement dated as of December 1, 1974 (hereinafter called the Finance Agreement), among the Assignee, the Lessee and the parties named in Schedule A thereto;

NOW, THEREFORE, in consideration of the mutual

promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Assignment; Definitions. The parties hereto contemplate that the Vendee will furnish that portion of the Purchase Price (as hereinafter defined) for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof between the Builder and the Assignee, as agent (such Agreement and Assignment being hereinafter called the Assignment).

The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

In case of such assignment, the Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title, and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease and Agreement in substantially the form of Annex D hereto (hereinafter called the Lease Assignment).

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Annex B hereto, and will sell and deliver to the Vendee, and the Vendee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, the Vendee and the Lessee (which specifications and modifica-

tions, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, and each such unit (except to the extent, if any, referred to in Annex A hereto) will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of the Equipment to the Vendee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until this Agreement and the Lease have been filed pursuant to Section 20c of the Interstate Commerce Act; and provided, further, that the Builder shall have no obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clauses (c) or (d) of Article 16 hereof or the occurrence of any event of default (as described in Article 16 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default.

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 3, any Equipment not delivered, accepted and settled for pursuant to Article 4 hereof on or before the Cut-Off Date (as defined in Article 4 hereof) shall be excluded from this Agreement. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limit-

ing this Agreement to the Equipment not so excluded herefrom. If the Builder's failure to deliver Equipment so excluded herefrom resulted from one or more of the causes set forth in the immediately preceding paragraph, the Lessee shall be obligated to purchase such Equipment and pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by the Builder, such payment to be in cash on the delivery of such Equipment, either directly or, in case the Lessee shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Lessee shall determine and as shall be reasonably acceptable to the Builder.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who may be employees of the Lessee) and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee (who may be an employee of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 10 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 14 hereof.

On delivery and acceptance of each such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 14 hereof.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder, the

Vendee and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased. If on any Closing Date (as hereinafter defined in this Article) the aggregate Purchase Price of Equipment for which settlement has theretofore been and is then being made under this Agreement and the Other Agreement would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as the Vendee may at its option agree to), the Builder (and any assignee of the Builder) and the Lessee will, upon request of the Vendee, enter into an agreement excluding from this Agreement or the Other Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement and the Other Agreement to not more than the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as aforesaid), and the Lessee agrees to purchase any such unit or units so excluded from the Builder for cash on the date such unit or units would otherwise have been settled for either directly, or, if the Builder and the Lessee shall mutually agree, by means of a conditional sale, equipment trust or other appropriate method of financing.

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Vendee as is provided in Item 2 of Annex A hereto (each such group being hereinafter called a Group). The term "Closing Date" with respect to any Group shall mean such date (not earlier than February 19, 1975, and not later than May 30, 1975, such later date being herein called the Cut-Off Date), occurring not more than ten business days following presentation by the Builder to the Vendee of the invoice and of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Lessee, as shall be fixed by the Lessee by written notice delivered to the Vendee and the Vendor at least six business days prior to the Closing Date designated therein; provided, however, that 72% of the aggregate Purchase Price of units of Equipment being settled for on any Closing Date shall not exceed the amount on deposit with the Assignee pursuant to the Finance Agreement as of such Closing Date and, provided, further, that the number of Closing Dates under this Agreement and under the Other Agreement shall not exceed three. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on

which banking institutions in New York, New York, or Chicago, Illinois, are authorized or obligated to remain closed.

The Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group an amount equal to 28% of the aggregate Purchase Price of such Group plus (ii) the amount, if any, by which (x) 72% of the Purchase Price of all units of the Equipment covered by this Agreement and the Other Agreement for which settlement has theretofore and is then being made, as set forth in the invoice or invoices therefor (said invoiced prices being herein called the Invoiced Purchase Prices), exceeds (y) the Maximum Conditional Sale Indebtedness specified in Item 7 of Annex A and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this clause (ii) and clause (ii) of subparagraph (a) of the third paragraph of Article 4 of the Other Agreement; and

(b) in 30 semiannual instalments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (herein called the Conditional Sale Indebtedness) shall be payable on each May 30 and November 30, commencing November 30, 1975, to and including May 30, 1990 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness from time to time outstanding shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 10-3/4% per annum and such interest shall be payable, to the extent accrued, on May 30, 1975, and on each Payment Date thereafter. The instalments of principal payable on the first 20 Payment Dates shall be calculated so that the aggregate of principal and interest payable on each such Payment Date shall be substantially equal and the aggregate of such instalments of principal will amortize 63.619927% of the Conditional Sale Indebtedness. The instalments of principal payable on the remaining 10 Payment Dates shall be calculated

so that the aggregate of principal and interest shall be substantially equal and the aggregate of such instalments of principal will amortize 36.380073% of the Conditional Sale Indebtedness. The Vendee will furnish to the Vendor and the Lessee promptly after each Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Vendee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 11-3/4% per annum.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Payments made in respect of the Purchase Price of Equipment may be made in Chicago clearing house funds. Except as provided in Article 7 hereof, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

The obligation of the Vendee to pay to the Vendor any amount required to be paid pursuant to subparagraph (a) of the third paragraph of this Article with respect to any Group is specifically subject to the fulfillment, in a manner satisfactory to the Vendee, on or before the Closing Date in respect of such Group, of the following conditions (any of which may be waived by the Vendee, and payment by the Vendee of the amount specified in subparagraph (a) of the third paragraph of this Article with respect to such Group shall be conclusive evidence that such conditions have been fulfilled or irrevocably waived):

(a) the Assignee shall have paid or caused to have been paid to the Builder the amounts contemplated to be paid by it as provided in Article 1 hereof and in the Assignment and the documents required by the Assignment shall have been delivered;

(b) no event of default of the Lessee specified herein or Event of Default of the Lessee under the Lease, nor any event which with lapse of time and/or demand provided for herein or in the Lease could constitute such an event of default or Event of Default, shall

have occurred and be continuing;

(c) the Vendee shall have received (i) the opinion of counsel required by § 15 of the Lease, (ii) the opinion of counsel required by Section 4(h) of the Assignment, (iii) the instrument of transfer required by Section 4(a) of the Assignment and (iv) such other documents as the Vendee may reasonably request; and

(d) the Guaranty Agreement dated as of the date hereof (hereinafter called the Guaranty Agreement) between the Lessee and the Vendee and the Finance Agreement, including all exhibits and annexes thereto, shall have been executed in the forms attached as Exhibits I and II to the Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) between the Lessee and the Beneficiary.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof), but not limiting the effect of Article 23 hereof, it is understood and agreed by the Vendor that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, including any liability arising out of or in connection with the performance of its obligations hereunder and excluding only the payments to be made pursuant to Article 20 hereof and subparagraph (a) of the third paragraph of this Article, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Vendee only to the extent that the Vendee or any assignee of the Vendee shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. In addition, the Vendor agrees that the Vendee (i) makes no representation or warranty, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease or this Agreement in so far as it relates to the Lessee (or any document relative thereto) or of any of the Lessee's obligations thereunder and hereunder and (ii) shall not be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease or the Lease Assignment; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Lessee and the Equipment and to the Vendor's rights under the Lease against the Lessee and the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 16 hereof shall have occurred and while it shall be continuing,

so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 10 or any other provision of the Lease and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) [not including amounts paid by the Lessee to the Vendee as reimbursement of sums paid by the Vendee on account of prior defaults under paragraph (a) of Article 16] as are indefeasibly received by the Vendee or any assignee of the Vendee and as shall equal the portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment or the Lessee as provided for herein for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder. Notwithstanding anything to the contrary contained in Article 16 or 17 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 5. Security Interest in the Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease. Any and all additions to the Equipment (except any communications, signal and automatic control equipment or devices having a similar use which have been added to such unit by the Lessee, the cost of which is not included in the Purchase Price of such unit and which are not required for the operation or use of such unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body), and any and all parts installed on and additions and replacements made to any unit of the Equipment shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute a bill or bills of sale for the Equipment releasing its security interest therein to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Vendee at its address referred to in Article 22 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or"to the payment of any penalty, forfeit or"damages for failure to execute and deliver such bill or bills of sale or"instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring

the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6. Taxes. All payments to be made by the Vendee hereunder will be free of net expense (after giving effect to Federal, state and local income tax benefits accruing to the Vendor) to the Vendor for collection or other charges and will be free of net expense (after giving effect to Federal, state and local income tax benefits accruing to the Vendor) to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than net income taxes, gross receipts taxes [except gross receipt taxes in the nature of or in lieu of sales, use or rental taxes], franchise taxes measured by net income based upon such receipts, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Vendee assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the security interest of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest, property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by

the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved in writing the payment thereof.

The Vendee's obligations under this Article 6 are subject to the limitations of Article 23 hereof.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good order and repair.

In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, or, in the opinion of the Vendee or the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government (such occurrences being herein called Casualty Occurrences), the Vendee shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of the interest and principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each instalment, the Conditional Sale Indebtedness and the Vendee will promptly furnish to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Assignee may request, calculated as provided in the fourth paragraph of Article 4 hereof. In the event of the requisition for"use by the United States Government of any unit of the Equipment, all

of the Vendee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest, and the release of the Vendor's security interest, in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of the Purchase Price in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of the Equipment.

The Lessee will at all times prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at its own expense, cause to be carried and maintained property insurance in respect of the Equipment at the time subject hereto, and public liability insurance, comparable in amounts and against risks insured against by the Lessee in respect of similar equipment owned by it. The proceeds of such insurance shall be payable to the Vendor, the Vendee and the Lessee as their interests may appear.

Any insurance proceeds or condemnation payments received by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by

the Vendee to the Vendor in respect of Casualty Occurrences pursuant to the second paragraph of this Article. If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence after the Vendee shall have made payments pursuant to this Article without deduction for such insurance proceeds or condemnation payments, the Vendor shall pay such insurance proceeds or condemnation payments to the Vendee. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

The foregoing provisions of this Article 7 shall be subject to the limitations set forth in the last paragraph of Article 4 hereof and the provisions of Article 23 hereof.

ARTICLE 8. Obligations of Lessee. The Lessee represents and warrants to the Vendor that the rentals and other obligations under the Lease have been calculated so as to provide for the due and punctual payment of the principal of, and interest on, the Conditional Sale Indebtedness and the due and punctual performance of all other obligations of the Vendee under this Agreement (except the obligations of the Vendee under subparagraph (a) of the third paragraph of Article 4 hereof and under Article 20 hereof) and that, pursuant to the Lease Assignment, the Vendor will have the indefeasible right to apply such rental payments and other payments under the Lease to the payment of the principal of, and interest on, the Conditional Sale Indebtedness and the payment of such other obligations under this Agreement. The Lessee, for value received, hereby unconditionally guarantees to the Vendor that the principal of, and interest on, the Conditional Sale Indebtedness will be duly and punctually paid when due and all other obligations of the Vendee will be duly and punctually performed (except for the obligations of the Vendee under subparagraph (a) of the third paragraph of Article 4 hereof and under Article 20 hereof), whether at stated maturity or by declaration or otherwise, by the due and punctual payment of the rentals and the due and punctual performance of the other obligations of the Lessee under the Lease, irrespective of any enforcement against the Vendee of any of the rights of the Vendor hereunder.

The Lessee hereby agrees that its aforesaid guar-

anty hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever), irrespective of the genuineness, validity, regularity or enforceability of this Agreement, the Lease, the Lease Assignment, any failure of the Lessee to make its rental or other payments under the Lease to the Vendor pursuant to the Lease Assignment or the failure of the Lessee to perform any other obligation under the Lease for any reasons whatsoever (including termination of the Lease by operation of law or otherwise) or any interference with the right of the Vendor to apply such rental or other payments as provided in the Lease Assignment, and irrespective of the last paragraph of Article 4 or of Article 23 hereof or any other circumstances which might otherwise limit the recourse of the Vendor to the Vendee. The Lessee hereby waives diligence, presentment, demand of payment, protest, any notice of any assignment hereof in whole or in part or of any default hereunder and all notices with respect to this Agreement and all demands whatsoever hereunder. No waiver by the Vendor of any of its rights hereunder and no action by the Vendor to enforce any of its rights hereunder or failure to take, or delay in taking, any such action shall affect the obligations of the Lessee hereunder. The Lessee hereby agrees that any rights that it may acquire by reason of performance of its obligations hereunder, by subrogation or otherwise, may not be exercised against the Vendee under this Agreement or with respect to any of the units of the Equipment until the Vendor has been paid all sums payable to it under this Agreement.

ARTICLE 9. Reports and Inspections. On or before March 31 in each year, commencing with the year 1976, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment then subject to this Agreement, the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 10 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Lessee's records

with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

The foregoing provisions of this Article 9 shall be subject to the provisions of Article 23 hereof.

ARTICLE 10. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the road number of the Lessee as set forth in Annex B hereto, or, in the case of Equipment not there listed, such road number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep 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 "Ownership subject to a Security Agreement filed under the Interstate Commerce Act, Section 20c", "Owned by a Bank or Trust Company under a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

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

The foregoing provisions of this Article 10 shall be subject to the provisions of Article 23 hereof.

ARTICLE 11. Compliance with Laws and Rules. During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's

or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any unit of the Equipment, the Vendee will conform therewith at its own expense; provided, however, that the Vendee or the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

The foregoing provisions of this Article 11 shall be subject to the provisions of Article 23 hereof.

ARTICLE 12. Possession and Use. The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The Vendee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns (the Lessee hereby so acknowledging) under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor.

The Vendee may also lease the Equipment to any other railroad company, but only with the prior written consent of the Vendor, which consent may be subject to the conditions, among others, that (i) such lease shall provide that the rights of such lessee are made expressly subordinate to the rights and remedies of the Vendor under this Agreement, (ii) such lessee shall expressly agree not to assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America and (iii) such lease shall

be assigned to the Vendor as security on terms consistent with those set forth in Annex D hereto, and in any event satisfactory to the Vendor.

ARTICLE 13. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case 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.

The foregoing provisions of this Article 13 shall be subject to the limitations set forth in the last paragraph of Article 4 hereof and the provisions of Article 23 hereof.

ARTICLE 14. Indemnities and Warranties. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims 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 the entering into or the performance of this Agreement, the retention by the Vendor of title to or a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any accident, in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when title thereto

remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except however, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the release of the security interest in, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

The Vendee will bear the responsibility for and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

The agreement of the parties relating to the Builder's warranty of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto. The foregoing provisions of this Article 14 and Annex A hereto shall be subject to the limitations set forth in the last paragraph of Article 4 hereof and the provisions of Article 23 hereof.

ARTICLE 15. Assignments. The Vendee will not (a) except as provided in Article 12 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Vendor hereunder (including, without limitation, rights and remedies against the Vendee and the Lessee) and (ii) provides that the Vendee shall remain liable for all the obligations of the Vendee under this Agreement. Subject to the preceding sentence, any such sale, assignment, transfer or disposition may be made by the Vendee without its vendee, assignee or transferee assuming any of the obligations of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee and the benefits arising from the undertakings of the Lessee hereunder, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time, provided, however, that unless there is an event of default here-

under, any such assignment (other than to the Assignee) may be made only to a domestic bank or other lending institution with a combined capital and surplus of not less than $50,000,000. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 14 hereof, or relieve the Vendee or the Lessee of their respective obligations to the Builder contained in Articles 2, 3, 4, 6, 8 and 14 hereof, Annex A hereto and this Article 15, or any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Vendee and the Lessee, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Vendee and the Lessee, respectively, of the notification of any such assignment, all payments thereafter to be made by the Vendee or the Lessee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Vendee and the Lessee recognize that this Agreement will be assigned to the Assignee as provided in the Assignment. The Vendee and the Lessee expressly represent, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Lessee by the Builder. Any and all such

obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Lessee, as the case may be, against and only against the Builder.

The Vendee and the Lessee will (a) in connection with each settlement for the Equipment, deliver to the Assignee, on the Closing Date for the Equipment, all documents required by the terms of the Assignment to be delivered to the Assignee by the Vendee or the Lessee, as the case may be, in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for the Assignee, and (b) cause to be furnished to the Assignee such number of counterparts of any other certificate or paper required by the Vendor as may reasonably be requested.

If the Builder shall not receive on the Closing Date the aggregate Purchase Price in respect of all of the Equipment proposed to be settled for on such Closing Date, the Builder will promptly notify the Vendee and the Lessee of such event and, if such amount shall not have been previously paid, the parties hereto will, upon the request of the Builder, enter into an appropriate written agreement with the Builder excluding from this Agreement those units of Equipment whose aggregate Purchase Price shall not have been received, and the Lessee will, not later than 90 days after such Closing Date, pay or cause to be paid to the Builder the aggregate unpaid Purchase Price of such units, together with interest thereon from such Closing Date to the date of payment by the Lessee at the highest prime rate of interest charged by any of the four New York City banks having the largest total assets in effect on the date such payment is due.

ARTICLE 16. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Vendee) and such default shall continue for 15 days after the date such payment is due and payable and 7 days after the Vendor shall have notified the Vendee and the Lessee of such default; or

(b) the Vendee (irrespective of the provisions of

Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Vendee) or the Lessee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

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

(d) any other proceeding shall be commenced by or against the Vendee or the Lessee for any relief which includes, or might result in, any modification of the obligations of the Vendee or the Lessee hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Vendee or the Lessee under this Agreement), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee or the Lessee, as the case may be, under this Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or

receivers appointed (whether or not subject to ratification) for the Vendee or the Lessee, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(e) the Vendee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment and the Vendee shall, for more than 30 days after demand in writing by the Vendor, fail to secure a reassignment or retransfer to the Vendee of such Agreement, interest or right; or

(f) an event of default shall have occurred under the Other Agreement;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) cause the term of the Lease immediately upon such notice to terminate (and the Vendee and the Lessee each acknowledge the right of the Vendor to terminate the term of the Lease), but without affecting the indemnities which by the provisions of the Lease survive the termination of its term and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then acrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, subject to the provisions of Articles 4 and 23 hereof, or the Lessee wherever situated. The Vendee or the Lessee, as the case may be,

shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Vendee and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee and the Lessee that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 17. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee or the Lessee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Vendee, the Lessee or any other person and for such purpose may enter upon the premises of the Vendee or the Lessee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee or the Lessee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points on the lines or premises of the Lessee for the delivery of the Equipment to the Vendor, the Lessee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic

and written notice to the Association of American Railroads and all railroads to which any unit or units have been interchanged to return the unit or units so interchanged) place such units upon such storage tracks of the Lessee as the Vendor reasonably may designate;

(b) permit the Vendor to store such units on such tracks at the risk of the Lessee without charge for rent or storage until such units have been sold, leased or otherwise disposed of by the Vendor; and

(c) transport the same to any reasonable place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Vendor.

During any storage period, the Lessee will, at its own cost and expense, insure, maintain and keep each such unit in good order and repair and will permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee and/or the Lessee requiring specific performance hereof. The Vendee and the Lessee hereby expressly waive any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Lessee by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equip-

ment shall thereupon terminate and all payments made by the Vendee and the Lessee may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Vendee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Lessee or any other party claiming from, through or under the Vendee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fee and any other expenses incurred by the

Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Vendee or the Lessee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed as provided in Article 22 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 railroads have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Vendee to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee or the Lessee (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder. From and after the date of any such sale, the Lessee shall, subject to the limitations of Article 4 hereof, pay to the Vendor an amount equal to the interest rate on the unpaid Conditional Sale Indebtedness with respect to such unit which shall not have been assembled, as hereinabove provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously

and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Vendee's or the Lessee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's or the Lessee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall, subject to the limitations of the last paragraph of Article 4 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the rate of 11-3/4% per annum, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee or the Lessee, as the case may be, to the extent of their respective interests therein.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations set forth in the last paragraph of Article 4 hereof.

The foregoing provisions of this Article 17 are

subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 18. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee and the Lessee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Vendee and the Lessee, to the full extent permitted by law, hereby waive all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 19. Recording. The Vendee or the Lessee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act; and the Vendee and the Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee and the Lessee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20. Payment of Expenses. The Vendee will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builder) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related

hereto or thereto, including all fees and expenses of counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment. It is understood and agreed that the obligations of the Vendee under this Article 20 will be fulfilled by NAC Leasing Corporation pursuant to an agreement between said corporation and the Beneficiary.

ARTICLE 21. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Except for the Participation Agreement and the Guaranty Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor, the Vendee and the Lessee with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor, the Vendee and the Lessee.

ARTICLE 22. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at its chief place of business at the following specified addresses:

(a) to the Vendee, at 130 South LaSalle Street, Chicago, Illinois 60690, with copies to the Beneficiary at The American Road, Dearborn, Michigan 48121, attention of Vice President, CIR Financing,

(b) to the Lessee, at 908 West Broadway, Louisville, Kentucky 40201, attention of the Treasurer,

(c) to the Builder, at the address specified in Item 1 of Annex A hereto,

(d) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, and to the Lessee, by such assignee,

or at such other address as may have been furnished in writing

by such party to the other parties to this Agreement.

ARTICLE 23. Immunities; Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto or the Beneficiary, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the last sentence of the fourth paragraph of Article 4, the second paragraph of Article 17 and under Articles 3, 6, 7 (other than the second sentence of the second paragraph thereof), 9, 10, 11, 13, 14 and 19 hereof shall be deemed in all respects satisfied by the Lessee's execution and delivery of the Lease. The Lessee shall be liable for such obligations under said Articles regardless of whether or not the Lease provides for the discharge of such obligations or is in effect. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 16 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by Exchange National Bank of Chicago or for the purpose or with the intention of binding the said bank personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank or the Beneficiary or on account of any representa-

tion, undertaking or agreement of the Vendee or the Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under any of them, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

ARTICLE 24. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; 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 or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 25. Execution. This Agreement may be executed in any number of counterparts, such counterparts together constituting but one and the same contract, but the counterpart delivered to the Assignee pursuant to the Assignment shall be deemed the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Agreement is dated as of the date first above written, 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 have executed or caused this instrument to be executed all as of the date first above written.

GENERAL ELECTRIC COMPANY,

by

Manager-Marketing, Locomotive Products Department

[CORPORATE SEAL]

Attest:

Attesting Secretary

LOUISVILLE AND NASHVILLE RAILROAD COMPANY,

by

Asst Vice President, ~~Secretary and Treasurer~~

[CORPORATE SEAL]

Attest:

~~Assistant Secretary~~

ATTESTING OFFICER

EXCHANGE NATIONAL BANK OF CHICAGO, as Trustee,

by

~~Senior~~ Vice President

[CORPORATE SEAL]

Attest:

Assistant Trust Officer

COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF ERIE,)

On this 17th day of January 1975, before me personally appeared C. S. Bressler, to me personally known, who, being by me duly sworn, says that he is Manager-Marketing, Locomotive Products Department of General Electric Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Margaret M. Frew
Notary Public

My Commission expires

MARGARET M. FREW, Notary Public
Erie, Erie Co., Pa.
My Commission Expires June 7, 1976

COMMONWEALTH OF KENTUCKY,)
) ss.:
COUNTY OF JEFFERSON,)

On this 29th day of January 1975, before me personally appeared ~~C. Haydon Edwards~~ N.H. Styer, to me personally known, who, being by me duly sworn, says that he is ~~Vice~~ Asst. Vice President, ~~Secretary and Treasurer~~ of Louisville and Nashville Railroad Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said company, that said instrument was signed and sealed on behalf of said company 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 company.

Sharon W. Bowles
Notary Public

My Commission expires

Notary Public, State at Large
My commission expires July 26, 1978

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this 23 day of JANUARY 1975, before me personally appeared SANFORD KOVITZ, to me personally known, who, being by me duly sworn, says that he is a Senior Vice President of Exchange National Bank of Chicago, that one of the seals affixed to the foregoing instrument is the corporate seal of said national bank, that said instrument was signed and sealed on behalf of said national bank 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 national bank.

Mae C. Dunn
Notary Public

My Commission expires
4-27-78

Annex A

to

Conditional Sale Agreement

Item 1: General Electric Company, a New York corporation, having an address at 2901 East Lake Road, Erie, Pennsylvania 16501.

Item 2: The Equipment shall be settled for in not more than three Groups of units of the Equipment delivered to and accepted by the Vendee unless a greater number shall be agreed to by the parties hereto.

Item 3: The Builder warrants that the Equipment will be built in accordance with the Specifications and the standards and requirements referred to in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (hereinafter in this Annex A called the Agreement) and warrants the Equipment will be free from defects in material (except as to specialties incorporated therein that are not of the Builder's own specification or design) and workmanship under normal use and service; the Builder's obligations under this paragraph being limited to making good at its plant any part or parts or any unit of the Equipment which, within two years after the delivery of such unit to the Lessee or before such unit has been in scheduled service 250,000 miles (whichever event shall first occur), shall be returned to the Builder with transportation charges prepaid and which the Builder's examination shall disclose to its satisfaction to have been thus defective.

This warranty of the Builder shall not apply (i) to any locomotive components which shall have been repaired or altered, unless repaired or altered by the Builder or its authorized service representatives, if, in its judgment, such repairs or alterations affect the stability of a unit of the Equipment or (ii) to any unit of the Equipment which has been subject to misuse, negligence or accident.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE BUILDER, EXCEPT FOR ITS OBLIGATIONS UNDER THE AGREEMENT. THE BUILDER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT, EXCEPT AS AFORESAID.

In no event shall the Builder be liable for special or consequential damages. The Builder's liability on any claim of any kind including negligence, or for any loss or damage arising out of, connected with, or resulting from, the Agreement, or from the performance or breach thereof, or from the manufacture, sale, delivery, resale, repair or use of any unit of the Equipment covered by, or furnished under, the Agreement, shall in no case exceed the Purchase Price of such unit of the Equipment involved in the claim, and upon the expiration of the warranty period specified above all such liability shall terminate. The Builder shall have no liability for any unit of the Equipment or part thereof which becomes defective by reason of improper storage or application, misuse, negligence, accident or improper operation, maintenance, repairs or alterations on the part of the Vendee or any third party other than the Builder. The foregoing warranty shall constitute the sole remedy of the Vendee and the sole liability of the Builder.

It is understood that the Builder has the right to make changes in the design of, or to add improvements to, units of the Equipment at any time without incurring any obligations to install, at the Builder's expense, the same on other locomotives sold by Builder.

The Builder further agrees with the Vendee that neither the inspection as provided in the Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in the Agreement shall be deemed a waiver or a modification by the Vendee of any of its rights under this Item 3.

Notwithstanding anything to the contrary contained herein, it is understood and agreed that there will be incorporated in each unit of the Equipment a limited number of used components which will be remanufactured by the Builder and will be the equivalent of new components.

Item 4: The Builder shall defend any suit or proceedings brought against the Lessee, the Vendee and/or assignee of the Builder's rights under the Agreement so far as the same is based on a claim that the Equipment of Builder's specification, or any part thereof, furnished under the Agreement constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at the Builder's expense) for the defense of same, and the Builder shall pay all damages and costs awarded therein against the Lessee, the Vendee and/or any such assignee.

The Builder further agrees that, in case the use of any unit of the Equipment or any part thereof is enjoined by a patent infringement suit or claim against the Builder, any assignee of the Builder, the Lessee, or the Vendee (other than a suit or claim arising in any way out of an alleged infringement by reason of the use of or incorporation in the Equipment of any device and/or specialty designated by the Lessee to be used by the Builder in the building of the Equipment and which was not manufactured by the Builder), the Builder will promptly, at its own expense and at its option: (i) procure for the Lessee and the Vendee the right to continue using such unit of the Equipment, or part thereof, or (ii) replace the same with a noninfringing unit or part thereof of the same quality and performance as the unit or part so replaced, or (iii) modify such unit of the Equipment, or part thereof, so that it becomes noninfringing and so that such unit or part thereof shall be of the same quality and performance as the unit or part so modified; provided, however, that the exercise of any of the foregoing options by the Builder shall not in any way be construed as a waiver of or limitation on the rights of the Lessee or the Vendee under this Item.

The Builder will not assume liability for patent infringement by reason of purchase, manufacture, sale or use of devices not included in and covered by its specification.

The foregoing states the entire liability of the Builder for patent infringement by the Equipment or any part thereof.

Except to the extent the Builder is obligated under this Agreement to indemnify, protect and hold harmless each assignee of any of the rights of the Builder under the Agreement, the Lessee agrees to indemnify, protect and hold harmless each such assignee from and against any and all liability, claims, demands, costs, charges and expenses including royalty payments and counsel fees, in any manner imposed upon or accruing against each such assignee because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, article or material which infringes or is claimed to infringe on any patent or other right.

Item 5: The Maximum Purchase Price referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is $11,000,000.

Item 6: General Motors Corporation (Electro-Motive Division).

Item 7: The Maximum Conditional Sale Indebtedness referred to in Article 4 of the Conditional Sale Agreement to which Annex A is attached is $7,920,000.

Annex B

to

Conditional Sale Agreement

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Road Numbers (Both Inclusive)	Unit Base Price	Total Base Price	Estimated Time and Place of Delivery
2,250 h.p., diesel-electric locomotive, General Electric Model U-23-B	3530B	Erie, Pennsylvania	20	2805-2824	$320,000	$6,400,000	Prior to April 15, 1975, at Builder's Plant

ANNEX C
TO CONDITIONAL
SALE AGREEMENT

LEASE OF RAILROAD EQUIPMENT

Dated as of December 1, 1974

between

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

and

EXCHANGE NATIONAL BANK OF CHICAGO
as Trustee under a
TRUST AGREEMENT
dated as of the date hereof with
AMERICAN ROAD EQUITY CORPORATION

LEASE OF RAILROAD EQUIPMENT dated as of December 1, 1974, between LOUISVILLE AND NASHVILLE RAILROAD COMPANY, a Kentucky corporation (hereinafter called the Lessee), and EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association, acting as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with American Road Equity Corporation, a Delaware corporation (said bank, so acting, being hereinafter called the Lessor, and said corporation being hereinafter called the Beneficiary).

WHEREAS the Lessor and the Lessee are entering into conditional sale agreements dated as of the date hereof with General Motors Corporation (Electro-Motive Division), a Delaware corporation, and General Electric Company, a New York corporation (each such corporation being hereinafter called a Builder), respectively (such agreements being hereinafter individually or collectively called the Security Documentation), wherein the Builders have agreed to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto (hereinafter called the Equipment);

WHEREAS each Builder is assigning its interests in the Security Documentation to American National Bank and Trust Company of Chicago, a national banking association, as agent (hereinafter, together with its successors and assigns, called the Vendor); and

WHEREAS the Lessee desires to lease such number of units of the Equipment as are delivered and accepted and settled for under the Security Documentation (hereinafter called the Units) at the rentals and for the terms and upon the conditions hereinafter provided;

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

§ 1. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent,

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

§ 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Documentation. The Lessor will cause each Unit to be delivered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Documentation. Upon such delivery, the Lessee will cause an employee of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance (hereinafter called the Certif-

icate of Acceptance) in accordance with the provisions of Article 3 of the Security Documentation, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 31 consecutive semiannual payments payable on May 30 and November 30 in each year, commencing May 30, 1975. The rental payment payable on May 30, 1975, shall be in an amount equal to .0298611% of the Purchase Price (as defined in the Security Documentation) of each Unit subject to this Lease for each day elapsed from the Closing Date (as defined in the Security Documentation) for such Unit to the date of such payment (each month being deemed to have 30 days). The next 30 rental payments shall each be in an amount equal to 5.2013% of the Purchase Price of each Unit then subject to this Lease.

The rental payments hereinbefore set forth are subject to adjustment pursuant to the Participation Agreement dated as of the date hereof between the Lessee and the Beneficiary (hereinafter called the Participation Agreement). If any of the semiannual rental payment dates referred to above is not a business day the semiannual rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Chicago, Illinois, are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease at the principal office of the Vendor, for the account of the Lessor in care of the Vendor, with instructions to the Vendor first, to apply such payments to satisfy the obligations of the Lessor under the Security Documentation, subject to the limitations contained in the last paragraph of Article 4 of the Security Documentation and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default under the Security Documentation shall have occurred and be continuing, to pay any balance

promptly to the Lessor at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in Chicago clearing house funds.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 9 and 14 hereof) shall survive the expiration of the term of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units, or under the Security Documentation in its capacity as guarantor or otherwise, are subject to the rights of the Vendor under the Security Documentation. If an event of default should occur under the Security Documentation, the Vendor may terminate this Lease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto, or in the case of any Unit not there listed such road number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep 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 "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c", "Owned by a Bank or Trust Company under a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the Security Documentation. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and

deposited by the Lessee in all public offices where this Lease and the Security Documentation shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect set forth in subparagraph B of § 15 hereof in respect of such statement. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of net expense (after giving effect to Federal, state and local income tax benefits accruing to the Lessor and the Beneficiary) to the Lessor and the Beneficiary for collection or other charges and will be free of net expense (after giving effect to Federal, state and local income tax benefits accruing to the Lessor and the Beneficiary) to the Lessor and the Beneficiary with respect to the amount of any local, state, federal, or foreign taxes (other than any United States federal income tax payable by the Beneficiary in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes based on such receipts which would be payable to the state and city in which the Beneficiary has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called 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 under the terms hereof or the Security Documentation, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which

might in any way affect the title of the Lessor or the interest of the Beneficiary or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor and the Beneficiary, adversely affect the title, property or rights of the Lessor and the Beneficiary hereunder or the Vendor under the Security Documentation. The Lessee agrees to give the Lessor notice of such contest within 30 days after institution thereof. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor.

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

In the event any returns, statements or reports with respect to impositions are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor and the Vendor in such Units; provided, however, that the Lessor shall, with respect to any state or political subdivision thereof of the United States of America, file required returns, statements, and reports relating to sales or use taxes, and taxes, fees, and charges on or measured by Lessor's earnings or gross receipts arising from the Units, or the value added by the Lessor thereto, and remit the amount thereof and the Lessee shall reimburse the Lessor promptly upon demand for the amount of such taxes, fees and charges.

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

To the extent the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Lessor hereby authorizes the Lessee to act in its own name and on its behalf; provided, however, that the Lessee shall indemnify and hold the Lessor harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever requested by the Lessor or the Beneficiary, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor and the Beneficiary of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor or the Beneficiary reasonably may require to permit the Lessor's compliance with the requirements of taxing jurisdictions.

§ 7. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Lessor, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government, or returned to the Builder thereof against refund of the Purchase Price thereof in event of a claim pursuant to said Builder's warranty (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in § 14 hereof, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such notice the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the Builder of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component

thereof, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in the following schedule opposite such date:

Date	Percentage
May 30, 1975	106.72
November 30, 1975	106.72
May 30, 1976	104.06
November 30, 1976	103.96
May 30, 1977	103.54
November 30, 1977	102.85
May 30, 1978	101.87
November 30, 1978	95.57
May 30, 1979	94.04
November 30, 1979	92.25
May 30, 1980	90.26
November 30, 1980	83.07
May 30, 1981	80.77
November 30, 1981	78.31
May 30, 1982	75.69
November 30, 1982	67.87
May 30, 1983	64.95
November 30, 1983	61.87
May 30, 1984	58.65
November 30, 1984	55.27
May 30, 1985	51.77
November 30, 1985	48.11
May 30, 1986	44.28
November 30, 1986	40.45
May 30, 1987	36.52
November 30, 1987	32.50
May 30, 1988	28.38
November 30, 1988	24.15
May 30, 1989	19.80
November 30, 1989	15.34
May 30, 1990	15.00

Whenever any Unit shall suffer a Casualty Occurrence after termination of this Lease and before such Unit shall

have been returned in the manner provided in § 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 15% of the Purchase Price of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Lessee shall be entitled to recover possession of such Unit.

In the event of the requisition for use by the United States Government (hereinafter called the Government) of any Unit during the term of this Lease or any renewal thereof all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease or any renewal thereof, but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the term of this Lease or any renewal thereof, shall be paid over to, or retained by, the Lessor.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee will, at all times prior to the return of the Equipment to the Lessor at its own expense, cause to be carried and maintained property insurance in respect of the Units at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned

by it and the benefits thereof shall be payable to the Vendor, the Lessor and the Lessee, as their interests may appear, so long as the indebtedness, if any, evidenced by the Security Documentation shall not have been paid in full, and thereafter to the Lessor and the Lessee as their interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Lessor and the Vendor and (ii) name the Lessor and the Vendor as additional named insureds as their respective interests may appear and shall provide that in respect of the interests of the Lessor and the Vendor in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor and the Vendor) and shall insure the Lessor and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Lessor or the Vendor). Any insurance proceeds (less expenses of collection) as the result of insurance carried by the Lessee, condemnation payments received by the Lessor in respect of Units suffering a Casualty Occurrence or refund of Purchase Price by a Builder shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 7. If the Lessor shall receive any such insurance proceeds, condemnation payments or refund after the Lessee shall have made payments pursuant to this § 7 without deduction for such insurance proceeds, condemnation payments or refund, the Lessor shall pay such proceeds, condemnation payments or refund to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds, condemnation payments or refund shall remain the property of the Lessor. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

§ 8. Reports. On or before March 31 in each year, commencing with the calendar year 1976, the Lessee will furnish to the Lessor and the Vendor 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 Documentation, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar

year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the Security Documentation have been preserved or replaced. The Lessor and the Beneficiary shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Beneficiary may request during the continuance of this Lease.

The Lessee will furnish the Lessor and the Vendor (i) within 45 days after the end of each of the first three quarterly fiscal periods of the Lessee, balance sheets of the Lessee as of the close of such periods, together with the related statements of income and surplus all in reasonable detail and certified by the Treasurer of the Lessee and (ii) within 90 days after the close of each fiscal year of the Lessee, balance sheet of the Lessee and its consolidated subsidiaries as of the close of such fiscal year, together with the related consolidated statements of income, surplus and source and application of funds for such fiscal year, all in reasonable detail and certified by Haskins & Sells or other recognized national firm of independent public accountants acceptable to the Lessor and the Vendor, including their certificates and accompanying comments, (iii) within 90 days after the close of each fiscal year of the Lessee, a certificate of the Lessee, signed by a principal financial officer or a vice president familiar with this Lease, to the effect that the signer has reviewed the relevant terms of this Lease and the Security Documentation and has made, or caused to be made under his supervision, a review of the transactions and condition of the Lessee during the preceding fiscal year, and that such review has not disclosed the existence during such period, nor does the signer have knowledge of the existence as at the date of such certificate, of any condition or event which constitutes an Event of Default or which, after notice or lapses of time or both, would constitute an Event of Default or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action the Lessee has taken or is taking or proposes to take with respect thereto, (iv) promptly upon the filing of the same, the Railroad Annual Report Form R-1 (or any form substituted

therefor) of the Lessee and the annual report under the Securities Exchange Act of 1934 of the Lessee for each fiscal year of the Lessee, and (v) from time to time such other information as the Lessor may reasonably request. The Lessee will furnish the Lessor from time to time on request such information as the Lessee or the Lessor may be required to furnish to any person pursuant to the Security Documentation.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of Items 3 and 4 of Annex A of the Security Documentation; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Documentation.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition.

Any and all additions to any Unit (except any communications, signal and automatic control equipment or devices having a similar use which have been added to such Unit by the Lessee, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body), and any and all parts installed on and additions and replacements made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Documentation) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself. The Lessee shall not permit any special device or assembly to be attached or affixed to any Unit which may not be readily removed from such Unit without materially impairing such Unit or the value thereof unless such special device or assembly is to be considered an accession to such Unit.

The Lessee agrees to indemnify, protect and hold harmless the Lessor, the Beneficiary and the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of a default or an Event of Default under the Security Documentation, the Finance Agreement or this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in § 14 of this Lease. 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 expiration or termination of the term of this Lease.

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

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

A. default shall be made in payment of any amount provided for in §§ 3, 7 or 13 hereof, and such default shall continue for seven days;

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

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained

herein or in the Security Documentation, and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

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

E. any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or under the Security Documentation under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or under the Security Documentation), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and under the Security Documentation shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred

by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

F. an event of default set forth in Article 16 of the Security Documentation shall have occurred arising out of any default by the Lessee in performing any of its obligations hereunder;

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

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the

term of this Lease as to such Unit over (y) the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 6.3% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Lessor and the Beneficiary in respect of the receipt thereof under the laws of any Federal, state or local government or taxing authority of the United States of America or under the laws of any taxing authority or governmental subdivision of a foreign country, shall, in the reasonable opinion of the Lessor and the Beneficiary, be equal to all or such portion of the Investment Credit (as defined in § 17 hereof) lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor and/or the Beneficiary as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 17 or any other provision of this Lease or the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default, plus such sum as shall cause the Lessor's or Beneficiary's net return under this Lease to be equal to the net return that would have been available to the Lessor or the Beneficiary if it had been entitled to utilization of all or such portion of the ADR Deduction and the Interest Deduction (as such deductions are defined in § 17 hereof) which was lost, not claimed, not available for claim or disallowed or recaptured in respect of a Unit as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 17 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to the Lessor by the Lessee, the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessee or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default plus such sum as will pay or

reimburse the Lessor and the Beneficiary for any interest, penalties or additions to tax incurred in connection with such loss, failure to claim, inability to claim, disallowance or recapture; or

(c) notwithstanding any termination pursuant to paragraph (b) above, sell the Units or any part thereof at public or private sale, as the Lessor may determine, free and clear of any rights of the Lessee or its successors or assigns and without any duty to account to the Lessee with respect to such sale or for the proceeds thereof (except to the extent required by paragraph (d) below if the Lessor elects to exercise its rights under said paragraph), in which event the Lessee's obligation to pay rental hereunder accruing after the date of such sale shall terminate (except to the extent that rental is to be included in computations under paragraph (d) or (e) below if the Lessor elects to exercise its rights under either of said paragraphs); or

(d) if the Lessor shall have sold the Units pursuant to paragraph (c) above, the Lessor, in lieu of exercising its rights under paragraph (b) above with respect to such Units, may, if it shall so elect, demand that the Lessee pay to the Lessor and the Lessee shall pay to the Lessor, as liquidated damages for loss of a bargain and not as a penalty, any unpaid rental for such Units for periods up to and including the end of the semiannual lease period next preceding the lease period in which such sale occurs, plus an amount equal to the excess of (x) the sum of (A) the Casualty Value of such Units as of the last rental payment date for which rental was actually paid, plus (B) interest on such Casualty Value computed at the rate of 15% per annum for the period from such rental payment date to the date of payment of liquidated damages under this paragraph over (y) the proceeds from such sale; or

(e) if, within 60 days following the date of termination of this Lease pursuant to paragraph (b) above and notwithstanding such termination, and after the exercise by the Lessor during such period of its best efforts to sell the Units, the Lessor is unable to sell the Units, then the Lessor, in lieu of exercising its rights under paragraph (b) above with respect to

such Units, may, if it shall so elect, demand that the Lessee pay to the Lessor and the Lessee shall pay to the Lessor, as liquidated damages for loss of a bargain and not as a penalty, any unpaid rental for such Units for periods up to and including the end of the semiannual lease period next preceding the lease period in which the close of such 60 day period occurs, plus an amount equal to the excess of (x) the sum of (A) the Casualty Value of such Units as of the last rental payment date for which rental was actually paid, plus (B) interest on such Casualty Value computed at the rate of 15% per annum for the period from such rental payment date to the date of payment of liquidated damages under this paragraph over (y) the fair market value of the Units.

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

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

§ 11. Return of Units Upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner and at the usual speed place such Units upon such storage tracks

of the Lessee or any of its affiliates as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the 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 obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under §§ 6, 7, 9, 10 and 17 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively).

So long as the Lessee shall not be in default under this Lease or under the Security Documentation in its capacity as guarantor or otherwise, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the Security Documentation, but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as the Lessee shall not be in default under this Lease or under the Security Documentation in its capacity as guarantor or otherwise, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, but only upon and subject to all the terms and conditions of this Lease and the Security Documentation; provided, however, that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any railroad corporation incorporated under

the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Security Documentation) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

§ 13. Renewal Option; Right of First Refusal. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the 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 extend the term of this Lease in respect of all but not fewer than all of the Units then covered by this Lease, for two additional one-year periods commencing on the scheduled expiration of the original term or any extended term of this lease, as the case may be, provided that no such extended term extends beyond May 30, 1992, at a "Fair Market Rental" payable in semiannual payments on May 30 and November 30 in each year of such extended term.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental 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 rental. If on or before four months prior to the expiration of the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor may select with the approval of the Lessee, or failing such approved selection, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the 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 the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

Subject to the leasehold interest of the Lessee hereunder, the Lessor agrees that (provided no default hereunder shall have occurred and be continuing) it will not sell such Units, or any of them, unless the Lessor shall have given the Lessee at least 30 business days' prior written notice of such sale, specifying the sale price and terms of such sale, and the Lessee shall have had the opportunity to purchase such Unit or Units at the same price and on the same terms as specified in such notice. The foregoing right of the Lessee shall expire 90 days after the termination of this Lease or any renewal thereof.

Upon payment of the purchase price of any Unit, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without warranties) for such Unit such as will transfer to the Lessee such title to such Unit as the Lessor derived from the Vendor, free and clear of all liens, security interests and other encumbrances arising through the Lessor.

§ 14. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the original or extended term of this Lease with respect to any Unit not purchased by the Lessee, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee as the Lessor may designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding six months and transport the same, at any time within such six-month period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any

injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If the Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease the Lessor shall have deemed to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. The Lessor shall execute and deliver to the Lessee a bill of sale or bills of sale transferring to the Lessee, or upon its order, the Lessor's title to and property in any Unit abandoned by it pursuant to the immediately preceding sentence. The Lessee shall have no liability to the Lessor in respect of any Unit abandoned by the Lessor after termination of the Lease; provided, however, that the foregoing clause shall not in any way effect the survival of the indemnities of the Lessee under this Lease which continue after the termination of the Lease or relieve the Lessee of its obligations pursuant to § 7 hereof to make payments equal to the Casualty Value of any Unit experiencing a Casualty Occurrence while this Lease is in effect.

§ 15. Representations and Warranties; Opinion of Counsel. The Lessee represents and warrants that:

(i) the Lessee is a corporation duly organized and validly existing in good standing under the laws of the Commonwealth of Kentucky and is duly qualified and authorized to do business wherever necessary to carry on its present business and operations and to own its properties and to perform its obligations under

this Lease, the Security Documentation, the Participation Agreement and the Guaranty Agreement dated as of the date hereof between the Lessee and the Lessor (hereinafter called the Guaranty Agreement);

(ii) the Lessee has the full power, authority and legal right to enter into and perform its obligations under this Lease, the Security Documentation, the Participation Agreement and the Guaranty Agreement and the execution, delivery and performance of this Lease, the Security Documentation, the Participation Agreement and the Guaranty Agreement have been duly authorized by all necessary corporate action on the part of the Lessee, do not require any stockholder approval or approval or consent of any trustee or holders of any indebtedness or obligations of the Lessee, or such required approvals and consents have heretofore been duly obtained, certified copies thereof having been delivered to the Lessor, and do not contravene any law binding on the Lessee or contravene the certificate of incorporation or by-laws of the Lessee or any indenture, mortgage, contract or other agreement to which the Lessee is a party or by which the Lessee is bound as guarantor or otherwise, or any law, governmental rule, regulation or order;

(iii) the Lessee is not a party to any agreement or instrument or subject to any charter or other corporate restriction which will materially adversely affect its financial condition, business or operations or the ability of the Lessee to perform its obligations under this Lease, the Security Documentation, the Participation Agreement or the Guaranty Agreement;

(iv) neither the execution and delivery by the Lessee of this Lease, the Security Documentation, the Participation Agreement and the Guaranty Agreement nor the consummation of any of the transactions by the Lessee contemplated hereby or thereby, require the consent or approval of, the giving of notice to, or the registration with, or the taking of any other action in respect of, the Interstate Commerce Commission or any other federal, state or foreign governmental authority or agency, except the filing and recording of such documents with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act;

(v) this Lease, the Security Documentation, the Participation Agreement and the Guaranty Agreement constitute valid and legally binding obligations of the Lessee enforceable against the Lessee in accordance with their respective terms;

(vi) there are no pending or threatened actions or proceedings before any court or administrative agency which will materially adversely affect the condition, business or operations of the Lessee and its subsidiaries, taken as a whole, or the ability of the Lessee to perform its obligations under this Lease, the Security Documentation, the Participation Agreement or the Guaranty Agreement;

(vii) the financial statements contained in the Railroad Annual Report Form R-1 (or Form A, as the case may be) of the Lessee for the five fiscal years ended December 31, 1973 (copies of which Forms and statements have been furnished the Lessor), correctly set forth the financial condition of the Lessee as of the dates, and the results of the operations thereof for the periods, covered thereby, and since December 31, 1973, there has been no material adverse change (or any development involving a prospective material adverse change) in such condition or operations and nothing has occurred which will materially adversely affect the ability of the Lessee to carry on its business and operations or to perform its obligations under this Lease, the Security Documentation, the Participation Agreement or the Guaranty Agreement.

On each Closing Date the Lessee will deliver to the Lessor two counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor, the Vendor and their respective counsel, to the effect set forth in clauses (i), (ii), (iv) and (vi) of the preceding paragraph, and further to the effect that:

A. the Security Documentation, this Lease, the Participation Agreement and the Guaranty Agreement have been duly authorized, executed and delivered by the Lessee and constitute legal, valid and binding agreements of the Lessee, enforceable in accordance with their respective terms;

B. the Security Documentation (and any assignment thereof) and this Lease (and any assignment hereof) have been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recordation will protect the Vendor's and the Lessor's interests in and to the Units and no filing, recording or deposit (or giving of notice) with any other federal, state or local government or agency thereof is necessary in order to protect the interests of the Vendor or the Lessor in and to the Units in the United States of America; and

C. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Vendor's or Lessor's right, title and interest therein; provided, however, that such liens may attach to the leasehold interest of the Lessee hereunder in and to the Units.

§ 16. Recording. The Lessee, at its own expense, will cause this Lease, the Security Documentation and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the Security Documentation and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Documentation and the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Documentation shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 17. Federal Income Taxes. The Beneficiary, as the owner of the Units for Federal income tax purposes, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), to an owner of property, including, without limitation, the maximum depreciation deduction with respect to the Units authorized under section 167 of the Code based on the aggregate Purchase Price of the Units utilizing the 12-year depreciable life prescribed for the Units in the Asset Guideline Class No. 00.25 in accordance with section 167(m) of the Code employing the double declining method of depreciation, switching to the sum-of-the-years-digits method when most beneficial to the Beneficiary (such deduction being herein called the ADR Deduction), deductions with respect to interest payable under the Security Documentation pursuant to section 163 of the Code (such deduction being herein called the Interest Deduction), and the 7% investment credit in 1975 (herein called the Investment Credit) with respect to the aggregate Purchase Price of the Units pursuant to section 38 and related sections of the Code.

The 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 or which would increase the amount of rentals required to be taken into income by the Beneficiary over the amount specified to be payable under this Lease on the dates due hereunder, except as specifically provided in this Lease, and that each of such corporations will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof. The Lessee agrees to keep and make available for inspection and copying by the Beneficiary such records as will enable the Beneficiary to determine the extent to which it is entitled to the benefit of the Investment Credit and the ADR Deduction with respect to the Units.

The Lessee represents and warrants that (i) all the Units constitute property the full Purchase Price of which qualifies for the Investment Credit under section 50 of the Code; (ii) at the time the Beneficiary becomes the owner of the Units for Federal income tax purposes, the Units will constitute "new section 38 property" within the meaning of sections 46 and 48 of the Code and at the

time the Beneficiary becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of sections 48(b) and 167(c)(2) of the Code from commencing with the Beneficiary; (iii) at all times during the term of this Lease, each Unit will constitute "section 38 property" within the meaning of section 48(a) of the Code, and the Lessee will not at any time during the term of this Lease use or fail to use any Unit in such a way as to disqualify it as "section 38 property" within the meaning of section 48(a) of the Code; (iv) for Federal income tax purposes, all amounts includible in the gross income of the Beneficiary with respect to the Units and all deductions allowable to the Beneficiary with respect to the Units will be treated as derived from, or allocable to, sources within the United States; and (v) the Lessee will maintain sufficient records to verify such use, which records will be furnished to the Beneficiary within 30 days after receipt of a written demand therefor.

§ 18. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 15% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 19. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at 130 South LaSalle Street, Chicago, Illinois 60690, with a copy to the Beneficiary at The American Road, Dearborn, Michigan 48121, Attention of Vice President, CIR Financing, and

(b) if to the Lessee, at 908 West Broadway, Louisville, Kentucky 40201, Attention of the Treasurer;

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

§ 20. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or

unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Except for the Participation Agreement and the Guaranty Agreement, this Lease exclusively and completely states the rights of the Lessor and the 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 signatories for the Lessor and the Lessee.

§ 21. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Assignment hereof to the Vendor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 22. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Kentucky; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

§ 23. Immunities; No Recourse. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by Exchange National Bank of Chicago or for the purpose or with the intention of binding said bank personally, but are made and intended for the

purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by said bank solely in the exercise of the powers expressly conferred upon said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank, or the Beneficiary or on account of any representation, undertaking or agreement of the Lessor or the Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee.

§ 24. Agreements for Benefit of Beneficiary. All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 10 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Beneficiary and any of the Beneficiary's assigns under the Trust Agreement.

§ 25. Miscellaneous. The Lessee will cause to be furnished to the Vendor promptly after each Closing Date (as defined in the Security Documentation) a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on the Conditional Sale Indebtedness (as defined in the Security Documentation) on each Payment Date (as defined in the Security Documentation) and promptly after any Casualty Occurrence any such revised schedule required by Article 7 of the Security Documentation.

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

LOUISVILLE AND NASHVILLE RAILROAD COMPANY,

by

_____
Vice President, Secretary and Treasurer

[Corporate Seal]

Attest:

_____
Assistant Secretary

EXCHANGE NATIONAL BANK OF CHICAGO,
as Trustee,

by

~~Senior~~ Vice President

[Corporate Seal]

Attest:

Assistant Trust Officer

COMMONWEALTH OF KENTUCKY,)
) ss.:
COUNTY OF JEFFERSON,)

On this day of 1975, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the Vice President, Secretary and Treasurer of LOUISVILLE AND NASHVILLE RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Notary Public

[Notarial Seal]

My Commission expires

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this 23 day of JANUARY 1975, before me personally appeared SANFORD KOVITZ, to me personally known, who, being by me duly sworn, says that he is a ~~Senior~~ Vice President of EXCHANGE NATIONAL BANK OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said national bank, that said instrument was signed and sealed on behalf of said national bank 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 national bank.

Mae O. Daum
Notary Public

[Notarial Seal]

My Commission expires
4-27-78

SCHEDULE A TO LEASE

Type	Quantity	Lessee's Road Numbers (Both Inclusive)
2,000 hp. diesel-electric locomotive, General Motors model SD-38-2	5	4500-4504
1,500 hp diesel-electric locomotive, General Motors model MP-15	10	5030-5039
2,250 hp. diesel-electric locomotive, General Electric model U-23-B	20	2805-2824

Annex D to
Conditional Sale Agreement

ASSIGNMENT OF LEASE AND AGREEMENT dated as of December 1, 1974 (hereinafter called this Assignment), by and between EXCHANGE NATIONAL BANK OF CHICAGO, acting as a Trustee (hereinafter called the Lessor or the Vendee), under a Trust Agreement dated as of the date hereof with American Road Equity Corporation, and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Agent (hereinafter called the Vendor) under a Finance Agreement dated as of the date hereof.

WHEREAS the Vendee and Louisville and Nashville Railroad Company (hereinafter called the Lessee) are entering into Conditional Sale Agreements dated as of the date hereof (hereinafter individually and collectively called the Security Documentation), with General Motors Corporation (Electro-Motive Division) and General Electric Company, respectively (hereinafter each called a Builder), providing for the sale to the Vendee of such units of railroad equipment (hereinafter called the Units) described in the Annexes thereto as are delivered to and accepted by the Vendee thereunder;

WHEREAS the Lessor and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units; and

WHEREAS, in order to provide security for the obligations of the Lessor under the Security Documentation and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as that term is defined in the Security Documentation), the Lessor has agreed to assign for security purposes its rights in, to and under the Lease to the Vendor;

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

1. Subject to the provisions of Paragraph 11 hereof, the Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as Vendee

and of the Lessee under the Security Documentation, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the Security Documentation, subject to the limitations contained in the last paragraph of Article 4 of the Security Documentation, and, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default thereunder, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor, by check mailed to the Lessor on such date or, upon written request of the Lessor, by bank wire to the Lessor at such address as may be specified to the Vendor in writing, and such balance shall be retained by the Lessor. If the Vendor shall not receive any rental payment under the first paragraph of § 3 of the Lease when due, the Vendor shall notify the Lessor at the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the Security Documentation.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment

shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

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

5. Upon the full discharge and satisfaction of all sums due from the Lessee and the Lessor under the Security Documentation, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. On each Closing Date (as defined in the Security Documentation) the Lessor will furnish the Vendor with an opinion of counsel that this Assignment has been duly authorized, executed and delivered by the Lessor and is a legal and valid agreement binding on the Lessor.

7. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Vendor in order to confirm or further assure, the interest of the Vendor hereunder.

8. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due, provided, however, that unless an Event of Default under the Lease has occurred and is continuing, such an assignment may be made only to a domestic bank or other lending institution with a combined capital and surplus of not less than $50,000,000. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

9. This Assignment shall be governed by the laws of the State of Illinois, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

10. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 22 of the Security Documentation, or at such other address as the Vendor shall designate.

11. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the Security Documentation has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the Security Documentation, the Lessor may, so long as no event of default under the Security Documentation has occurred and is continuing, exercise or enforce, or seek to exercise or enforce or avail itself of, such rights, powers, privileges, authorizations or benefits.

12. Notwithstanding any other provision of this Assignment (including, but not limited to, any provision

of the first paragraph of Paragraph 1 and Paragraph 3 hereof), (a) the terms of this Assignment shall not impose any obligations on the Lessor in addition to the obligations of the Lessor under the Lease or under the Security Documentation or in any way limit the effect of the last paragraph of Article 4 of the Security Documentation, Article 23 of the Security Documentation or § 23 of the Lease, (b) so long as there is no event of default under the Security Documentation, and to the extent that the Vendor does not seek to receive and collect any Payments under the Lease in excess of the amounts required to discharge the obligations of the Lessor under the Security Documentation, the terms of this Assignment shall not limit or in any way affect the Lessor's right to receive and collect any Payments under the Lease in excess of the obligations of the Lessor under the Security Documentation, or empower the Vendor in any way to waive or release the Lessee's obligation to pay such excess amounts, and the Lessor shall continue to be empowered to ask, demand, sue for, collect and receive any and all of such excess amounts and (c) each and all of the representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by Exchange National Bank of Chicago, or for the purpose or with the intention of binding said bank personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement referred to in the first paragraph hereof, and this Assignment is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon said bank as trustee under said Trust Agreement, and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank, except for wilful misconduct or negligence, or against the Beneficiary under such Trust Agreement or on account of any representation, undertaking or agreement of the Lessor or such Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under any of it, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate

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

EXCHANGE NATIONAL BANK OF CHICAGO,
as Trustee,

by _____
~~Senior~~ Vice President

[Corporate Seal]

Attest:

_____
Assistant Trust Officer

AMERICAN NATIONAL BANK AND TRUST
COMPANY OF CHICAGO, as Agent,

by _____
Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this 23 day of JANUARY 1974, before me personally appeared SANFORD KOVITZ, to me personally known, who, being by me duly sworn, says that he is ~~Senior~~ Vice President of EXCHANGE NATIONAL BANK OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said national bank and that said instrument was signed and sealed on behalf of said national bank 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 national bank.

Mae C. Dawn
Notary Public

[Notarial Seal]

My Commission expires
4-27-78

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this day of 1974, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said company and that said instrument was signed and sealed on behalf of said company 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 company.

_____
Notary Public

[Notarial Seal]

My Commission expires

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Assignment of Lease and Agreement is hereby acknowledged as of December 1, 1974.

LOUISVILLE AND NASHVILLE RAILROAD COMPANY,

by

_____

Vice President, Secretary and Treasurer