

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

MAURICE T. MOORE
BRUCE BROMLEY
WILLIAM B. MARSHALL
RALPH L. McAFEE
ROYALL VICTOR
ALLEN H. MERRILL
HENRY W. DE KOSMIAN
ALLEN F. MAULSBY
STEWARD R. BROSS, JR.
HENRY P. RIOR DAN
JOHN R. HUPPER
SAMUEL C. BUTLER
WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT
GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK
GEORGE T. LOWY
ROBERT ROSENMAN

JAMES H. DUFFY
ALAN J. HRUSKA
JOHN E. YOUNG
JAMES M. EDWARD
DAVID G. OMBRO
DAVID L. SCHWARTZ
RICHARD J. HIEGEL
FREDERICK A. SCHWARTZ
CHRISTINE B. BEAR
ROBERT S. RIFKIND
DAVID G. BROWNWOOD
PAUL M. BROWNWOOD
RICHARD M. ALLEN
THOMAS R. BROME
ROBERT D. JOFFE
ROBERT F. MULLEN
ALLEN FINKELBERG
RONALD S. ROLFE
JOSEPH R. SAHID
PAUL C. SAUNDERS
MARTIN L. SENZEL
DOUGLAS D. BROADWATER
ALAN C. STEPHENSON

RECORDATION NO. 10157
Filed 1425

FEB 27 1979 -3 50 PM

INTERSTATE COMMERCE COMMISSION

Ab. 9-058A320

Date FEB 27 1979

Fee \$100.00

ICC Washington, D. C.

10157

RECORDATION NO. Filed 1425

FEB 27 1979 -3 50 PM

INTERSTATE COMMERCE COMMISSION

St. Louis-San Francisco Railway Company
Lease Financing Dated as of January 1, 1979
9.5% Conditional Sale Indebtedness Due August 1, 1994

Dear Mr. Homme:

Pursuant to 49 U.S.C. § 11303(a) and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of St. Louis-San Francisco Railway Company for filing and recordation counterparts of the following documents:

1(a) Conditional Sale Agreement dated as of January 1, 1979, between Mercantile-Safe Deposit and Trust Company, as Trustee, and General Motors Corporation (Electro-Motive Division);

(b) Agreement and Assignment dated as of January 1, 1979, between General Motors Corporation (Electro-Motive Division) and The Boatmen's National Bank of St. Louis, as Agent; and

2(a) Lease of Railroad Equipment dated as of January 1, 1979, between St. Louis-San Francisco Railway Company and Mercantile-Safe Deposit and Trust Company, as Trustee;

RECEIVED
FEB 27 3 46 PM '79
RECORDATION NO. 10157
FEB 27 1979 -3 50 PM
I.C.C. FEE OPERATIONS BR.
INTERSTATE COMMERCE COMMISSION
RECORDATION NO. 10157
Filed 1425
FEB 27 1979 -3 50 PM
INTERSTATE COMMERCE COMMISSION
COUNSEL
ROSWELL L. GILPATRICK
ALBERT J. HANNELLY
FRANK H. DETWEILER
GEORGE G. TYLER
CARLYLE E. MAW
ROBERT W. FESSLIN, JR.
GEORGE W. WIRNER
JOHN H. MORSE
HAROLD R. MEDINA, JR.
CHARLES R. LINTON
FRANCE DE LA CONCORDE
75008 PARIS, FRANCE
TELEPHONE: 265-81-54
TELEX: 290530
33 THROGMORTON STREET
LONDON, EC2N 2BR, ENGLAND
TELEPHONE 01-608-1421
TELEX: 8814901
CABLE ADDRESSES
CRAVATH, N. Y.
CRAVATH, PARIS
CRAVATH, LONDON E. C. 2

Handwritten signature and notes on the left margin.

(b) Assignment of Lease and Agreement dated as of January 1, 1979, between Mercantile-Safe Deposit and Trust Company, as Trustee, and The Boatmen's National Bank of St. Louis, as Agent.

The names and addresses of the parties to the aforementioned Agreements are as follows:

(1) Assignee-Agent:

The Boatmen's National Bank of St. Louis
100 North Broadway
St. Louis, Missouri 63102

(2) Trustee:

Mercantile-Safe Deposit and Trust Company
P. O. Box 2258
Baltimore, Maryland 21203

(3) Builder-Vendor:

General Motors Corporation
(Electro-Motive Division)
La Grange, Illinois 60525

(4) Lessee:

St. Louis-San Francisco Railway Company
3253 East Trafficway
Springfield, Missouri 65802

Please file and record the documents referred to in this letter and cross-index them under the names of the Assignee-Agent, the Trustee, the Builder-Vendor, and the Lessee.

The equipment covered by the aforementioned documents consists of the following:

25 GP 40-2 3,000 h.p. Diesel Electric Locomotives bearing identifying numbers of the Lessee 750 through 774, both inclusive; and

4 SD 38-2 2,000 h.p. Diesel Electric Locomotives bearing identifying numbers of the Lessee 296 through 299, both inclusive.

There is also enclosed a check for \$100 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document) and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
As Agent for St. Louis-San
Francisco Railway Company

H. G. Homme, Esq., Acting Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

9

BY HAND

RECORDATION NO. 10157 Filed 1425

FEB 27 1979 -3 50 PM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 2043-854]

CONDITIONAL SALE AGREEMENT

Dated as of January 1, 1979

between

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
not in its individual capacity but solely
as Trustee under a Trust Agreement
dated as of the date hereof

with

General Electric Credit Corporation

and

J. P. Morgan Interfunding Corp.

and

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

CONDITIONAL SALE AGREEMENT

Table of Contents*

	<u>Page</u>
ARTICLE 1. ASSIGNMENT; DEFINITIONS	C-1
1.1. Contemplated Sources of Purchase Price; Assignment	C-1
1.2. Lease Assignment	C-2
1.3. Meaning of "Builder" and "Vendor"	C-2
ARTICLE 2. CONSTRUCTION AND SALE	C-2
ARTICLE 3. INSPECTION AND DELIVERY	C-3
3.1. Place of Delivery	C-3
3.2. Force Majeure	C-3
3.3. Exclusion of Equipment	C-4
3.4. Inspection	C-4
3.5. Builder's Responsibilities After Delivery .	C-5
ARTICLE 4. PURCHASE PRICE AND PAYMENT	C-5
4.1. Meaning of "Purchase Price"; Exclusion of Units	C-5
4.2. Designation of Equipment; Settlement and Closing Dates	C-6
4.3. Indebtedness of Trustee to Vendor	C-6
4.4. CSA Indebtedness; Payment Dates; Interest	C-7
4.5. Calculation of Interest	C-7
4.6. Penalty Interest	C-7
4.7. Currency of Payment	C-8
4.8. Liability of Trustee Limited to "Income and Proceeds from Equipment".....	C-8

* This Table of Contents has been included in this document for convenience only and does not form a part of, or affect any construction or interpretation of this document.

	<u>Page</u>
ARTICLE 5. SECURITY INTEREST IN THE EQUIPMENT	C-10
5.1. Vendor To Retain Security Interest; Acces- sions Are Part of Equipment	C-10
5.2. Obligations Upon Payment of CSA Indebtedness	C-10
ARTICLE 6. TAXES	C-11
6.1. General Tax Indemnification	C-11
6.2. Claims; Contests; Refunds	C-12
6.3. Reports or Returns	C-13
6.4. Survival	C-13
6.5. Article 6 Subject to Articles 4 and 23	C-13
ARTICLE 7. MAINTENANCE AND CASUALTY OCCURRENCES	C-13
7.1. Maintenance	C-13
7.2. Casualty Occurrences	C-13
7.3. Casualty Value	C-14
7.4. Obligations upon Payment of Casualty Value	C-15
ARTICLE 8. INSURANCE PROCEEDS AND CONDEMNATION PAYMENTS	C-15
ARTICLE 9. REPORTS AND INSPECTIONS	C-15
ARTICLE 10. MARKING OF EQUIPMENT	C-16
10.1. Marking of Equipment	C-16
10.2. No Designations of Ownership	C-16
10.3. Article 10 Subject to Article 23	C-16
ARTICLE 11. COMPLIANCE WITH LAWS AND RULES	C-16
11.1. Compliance with Laws and Rules	C-16
11.2. Article 11 Subject to Article 23	C-17
ARTICLE 12. POSSESSION AND USE	C-17
12.1. Possession and Use of Equipment by Trustee	C-17
12.2. Lease Permitted; Lease Subordinate; No Amendment or Termination	C-17

	<u>Page</u>
12.3. Other Leases of Equipment	C-17
ARTICLE 13. PROHIBITION AGAINST LIENS	C-18
13.1. Trustee To Discharge Liens	C-18
13.2. No Breach for Certain Liens	C-18
13.3. Article 13 subject to Article 23 Except in Certain Instances	C-18
ARTICLE 14. INDEMNITIES AND WARRANTIES	C-19
14.1. Indemnification	C-19
14.2. Survival; No Subrogation	C-20
14.3. Trustee Not Released If Equipment Damaged or Lost	C-21
14.4. Warranties of Builder; Patent Indemnities; Subject to Article 23	C-21
ARTICLE 15. ASSIGNMENTS	C-21
15.1. Assignment by Trustee	C-21
15.2. Assignment by Vendor	C-21
15.3. Notice of Assignment by Vendor	C-22
15.4. No Set-Off Against Indebtedness	C-22
ARTICLE 16. DEFAULTS	C-23
16.1. Events of Default; Termination of Lease; Declaration of Default; Acceleration	C-23
16.2. Waiver of Defaults	C-25
ARTICLE 17. REMEDIES	C-25
17.1. Vendor May Take Possession of Equipment ...	C-25
17.2. Assembling of Equipment for Vendor	C-26
17.3. Vendor May Dispose of or Retain Equipment .	C-27
17.4. Vendor May Sell Equipment; Trustee's Right of Redemption	C-27
17.5. Sale of Equipment by Vendor	C-28
17.6. Effect of Remedies and Powers and Exercise Thereof	C-29
17.7. Deficiencies	C-29

	<u>Page</u>
17.8. Expenses	C-30
17.9. Remedies Subject to Legal Requirements	C-30
ARTICLE 18. APPLICABLE STATE LAWS	C-30
18.1. Conflicts with State Laws	C-30
18.2. Waiver of Notices	C-30
ARTICLE 19. RECORDING	C-30
ARTICLE 20. BUILDER'S REPRESENTATIONS AND WARRANTIES	C-31
ARTICLE 21. HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT	C-31
21.1. Headings for Convenience Only	C-31
21.2. Effect and Modification of Agreement	C-31
ARTICLE 22. NOTICE	C-31
ARTICLE 23. IMMUNITIES; SATISFACTION OF UNDERTAKINGS	C-32
23.1. No Recourse Against Certain Persons	C-32
23.2. Satisfaction of Certain Covenants	C-32
23.3. No Personal Liability of Trustee	C-33
ARTICLE 24. LAW GOVERNING	C-34
ARTICLE 25. EXECUTION	C-34
Schedule I	C-37
Annex A--Miscellaneous	C-38
Annex B--Description of Equipment	C-40
Annex C--Lease	
Annex D--Assignment of Lease and Agreement	

CONDITIONAL SALE AGREEMENT dated as of January 1, 1979, between GENERAL MOTORS CORPORATION (Electro-Motive Division), a Delaware Corporation (the "Builder" or the "Vendor" as the context may require, all as more particularly set forth in Article 1 hereof), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland banking corporation, acting not in its individual capacity but solely as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with GENERAL ELECTRIC CREDIT CORPORATION and J. P. MORGAN INTERFUNDING CORP. (collectively the "Owners" and severally the "Owner").

WHEREAS the Builder has agreed to construct, sell and deliver to the Trustee, and the Trustee agrees to purchase, subject to the terms and conditions hereof, the equipment described in Annex B hereto (the "Equipment");

WHEREAS the Trustee is entering into a lease with ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY, a Missouri corporation (the "Lessee") in substantially the form annexed hereto as Annex C (the "Lease"); and

WHEREAS THE BOATMEN'S NATIONAL BANK OF ST. LOUIS (the "Assignee"), is acting as agent for certain investors pursuant to a Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Lessee, the Assignee, the Trustee, the Owners and the parties named in Appendix I thereto (the "Investors");

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. ASSIGNMENT; DEFINITIONS

1.1. Contemplated Sources of Purchase Price; Assignment. The parties hereto contemplate that the Trustee will furnish 34% of the Purchase Price (as defined in paragraph 4.1 hereof) of the Equipment 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 Assign-

ment dated as of the date hereof (the "CSA Assignment") between the Builder and the Assignee.

1.2. Lease Assignment. The Trustee will assign to the Vendor, as security for the payment and performance of all the Trustee's obligations hereunder, all right, title, and interest of the Trustee in and to the Lease, pursuant to an Assignment of Lease and Agreement in substantially the form of Annex D hereto (the "Lease Assignment").

1.3. Meaning of "Builder" and "Vendor". The term "Builder", whenever used in this Agreement, means, both before and after any assignment of its rights hereunder, the party hereto which has manufactured the Equipment to be constructed and sold hereunder and any successor or successors for the time being to its manufacturing properties and business. The term "Vendor", whenever used in this Agreement, means, before any such assignment, the Builder, 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. Any reference herein to this Agreement or any other agreement shall mean said agreement and all amendments and supplements hereto or thereto then in effect.

ARTICLE 2. CONSTRUCTION AND SALE

Pursuant to this Agreement, the Builder shall construct the Equipment at its plant described in Annex B hereto, and will sell and deliver the Equipment to the Trustee, and the Trustee will purchase from the Builder and accept delivery of and pay for 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 Trustee and the Lessee (which specifications and modifications, if any, are hereinafter called the "Specifications"). The Builder represents and warrants that (i) the design, quality and component parts of each unit of the Equipment to be delivered by the Builder under this Agreement shall conform, on the date of delivery and acceptance 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 (ii) each such unit will be new railroad equipment (except to the extent, if any, referred to in the footnote to Annex B hereto).

ARTICLE 3. INSPECTION AND DELIVERY

3.1. Place of Delivery. The Builder will deliver the Equipment to the Trustee 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 Trustee), freight charges and storage charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that the Builder shall not have any obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clauses (c) or (d) of paragraph 16.1 hereof; subsequent to the occurrence of any event of default (as described in paragraph 16.1 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default; or subsequent to any notice to the Builder that the Assignee does not have on deposit, pursuant to the Participation Agreement, sufficient funds available to make payment for such units as provided in Section 4 of the CSA Assignment or shall not make, or has not made, payment for any unit assigned to it pursuant to the CSA Assignment, unless the Builder has been assured to its satisfaction that it will receive on the Closing Date (as defined in paragraph 4.2 hereof) the full Purchase Price thereof. The Builder agrees not to deliver any unit of its Equipment hereunder (a) following receipt of written notice from the Trustee or the Assignee of the commencement of any such proceedings or the occurrence of any such event, as aforesaid or (b) until it receives notice (i) from the Assignee that the conditions contained in Paragraph 7 of the Participation Agreement have been met and (ii) from the Trustee that the conditions contained in Paragraph 8 of the Participation Agreement have been met.

3.2. Force Majeure. 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.

3.3. Exclusion of Equipment. Any Equipment not delivered pursuant to paragraph 3.1 hereof and any Equipment not delivered and accepted hereunder on or before December 15, 1979, shall be excluded from this Agreement, and the Trustee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. In the event of any such exclusion of any unit of Equipment herefrom pursuant to the foregoing provisions of this paragraph 3.3 or pursuant to paragraph 4.1 hereof, or in the event the Trustee is relieved of its obligation hereunder to accept or pay for any or all units of Equipment in accordance with the terms and conditions hereof for any reason whatsoever, the Lessee will be obligated pursuant to Paragraph 1 of the Participation Agreement to accept all such units completed and delivered by the Builder and to pay the full purchase price therefor when due, all in accordance with the terms of its prior contractual arrangements with such Builder relating to the Equipment (the "Purchase Order"), the Trustee will reassign, transfer and set over to the Builder and the Lessee, as their respective interests shall appear, all the right, title and interest of the Trustee in and to the units so excluded and the Purchase Order to the extent relating thereto, and the Trustee shall have no further obligation or liability in respect of units so excluded.

3.4. Inspection. During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Trustee (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 or after 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 Trustee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications and requirements and standards applicable thereto, such inspector or an authorized representative of the Trustee (who

may be an employee of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Trustee and are marked in accordance with paragraph 10.1 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in paragraph 14.4 hereof. By § 2 of the Lease, the Trustee is appointing the Lessee its agent to inspect and accept delivery of the Equipment. Acceptance of any unit of Equipment by the Lessee (or its employees or agents, as aforesaid) pursuant to § 2 of the Lease shall be deemed to be acceptance of such unit by the Trustee.

3.5. Builder's Responsibilities After Delivery.

On delivery by the Builder hereunder of units of Equipment 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 paragraph 14.4 hereof.

ARTICLE 4. PURCHASE PRICE AND PAYMENT

4.1. Meaning of "Purchase Price"; Exclusion of Units. 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 may be agreed to by the Builder, the Trustee and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the invoice of the Builder delivered to the Trustee and, if the Purchase Price is other than the base price or prices set forth in said Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Trustee (such invoice or invoices being hereinafter called the "Invoices"). If on any Closing Date the aggregate Purchase Price of Equipment for which settlement has theretofore been and is then being made would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto, the Builder (and any assignee of the Builder) will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Trustee and the Lessee, as will, after giving effect to such exclusion, reduce such aggregate

Purchase Price to not more than said Maximum Purchase Price and the Trustee shall have no further obligation or liability in respect of the units so excluded.

4.2. Designation of Equipment; Settlement and Closing Dates. All Units of Equipment delivered and accepted hereunder (i) on or prior to June 30, 1979, shall be designated Schedule A Equipment and (ii) after June 30, 1979, but on or prior to December 15, 1979, shall be designated Schedule B Equipment. The Schedule A Equipment shall be settled for in such number of Groups of Equipment as is provided for in Item 2 of Annex A hereto. The Schedule B Equipment shall be settled for in one Group of Equipment delivered to and accepted by the Trustee as provided in Item 2 of Annex A hereto. The term "Closing Date" with respect to any Group shall be such date as is specified by the Lessee by six days' notice thereof with the concurrence of the Lessee, the Assignee and the Builder, but in no event shall such date be later than December 29, 1979. Such notice shall specify the aggregate Purchase Price of such Group and a copy thereof shall be sent by the Lessee to the Builder, the Assignee, the Trustee and each Owner. The term "Group", as used herein, shall mean the group of units of Equipment being settled for on any Closing Date. The place of each closing shall be determined by mutual agreement among the parties hereto. At least five business days prior to the Closing Date with respect to a Group of Equipment, the Builder shall present to the Trustee, the Lessee and each Owner the Invoices for the Equipment to be settled for. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in St. Louis, Missouri, Baltimore, Maryland, or New York, New York, are authorized or obligated to remain closed.

4.3. Indebtedness of Trustee to Vendor. Subject to the terms of this Agreement, the Trustee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash or immediately available funds 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 34% of the aggregate Purchase Price of the units of Equipment in such Group; and

(b) in 30 semiannual installments, 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 under this subparagraph (b) being hereinafter called the "CSA Indebtedness").

4.4. CSA Indebtedness; Payment Dates; Interest.

(1) The installments of the CSA Indebtedness shall be payable semiannually on February 1 and August 1 in each year, commencing February 1, 1980, to and including August 1, 1994, each such date being hereinafter called a "Payment Date". The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such Indebtedness was incurred at the rate of 9.5% per annum. Interest on the unpaid balance of the CSA Indebtedness shall be payable to the extent accrued on August 1, 1979, and on each Payment Date thereafter. The amounts of CSA Indebtedness payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto (subject to the provisions of Article 7 hereof) and the aggregate of such installments of principal and interest shall completely amortize the CSA Indebtedness at maturity. The Trustee will furnish to the Vendor and the Lessee promptly after the last 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.

(2) If any of the dates for payment of principal or interest is not a business day, such payment shall be payable on the next business day.

4.5. Calculation of Interest. Interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months except that interest payable on August 1, 1979, shall be computed on an actual elapsed day, 365-day year, basis.

4.6. Penalty Interest. The Trustee will pay interest, to the extent legally enforceable, at the rate of 10.5% per annum (the "Penalty Rate") upon all amounts remaining unpaid after the same shall have become due and

payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

4.7. Currency of Payment. 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. Except as provided in Articles 7 and 16 hereof, the Trustee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

4.8. Liability of Trustee Limited to "Income and Proceeds from Equipment". Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof, except as set forth in this paragraph 4.8), but not limiting the effect of Article 23 hereof, the liability of the Trustee or any assignee of the Trustee for all payments to be made by it under this Agreement, with the exception only of the payments to be made pursuant to paragraph 4.3(a) hereof and the proviso to paragraph 13.3 hereof, 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 Trustee only to the extent that the Trustee or any assignee of the Trustee shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. Except as provided in the preceding sentence, the Trustee shall not have any liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Trustee or any assignee of the Trustee. In addition, the Vendor agrees that the Trustee

(i) makes no representation or warranty as to, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease, insofar as it relates to the Lessee (or any document relative thereto) or of any of the Lessee's obligations thereunder, 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; it being agreed that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Equipment and to

the Vendor's rights under the Lease and the Lease Assignment 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 paragraph 16.1 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Trustee or any assignee of the Trustee 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 paragraph 7.2 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 13 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 Trustee as reimbursement of sums paid by the Trustee on account of prior defaults under § 13.1(A) of the Lease) as are indefeasibly received by the Trustee or any assignee of the Trustee and as shall equal the portion of the CSA 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 Trustee or any assignee of the Trustee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA 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 Trustee or any assignee of the Trustee 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 Trustee shall derogate from the right of the Vendor to proceed against the Equipment 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 Trustee for an amount in excess of the amounts payable by the Trustee 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 and cause such judgment to be marked satisfied as to all amounts in excess of such limitations.

ARTICLE 5. SECURITY INTEREST IN THE EQUIPMENT

5.1. Vendor to Retain Security Interest; Accessions are Part of Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Trustee 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 Trustee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Trustee and the Lessee as provided in this Agreement and the Lease. Such retention of security interest is solely to secure performance by the Trustee of its obligations under this Agreement (without regard to any provision of this Agreement limiting the liability of the Trustee), and, subject thereto, ownership of the Equipment shall be and remain in the Trustee subject to such performance. Any and all parts installed on and additions and replacements made to any unit of the Equipment (i) which are not readily removable without causing material damage to such unit, (ii) the cost of which is included in the Purchase Price of such unit or (iii) which are required for the operation or use of such unit by the Association of American Railroads and/or the Interstate Commerce Commission, the United States Department of Transportation or any other applicable regulatory body, 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.

5.2. Obligations Upon Payment of CSA Indebtedness. 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 Trustee without further transfer or action on the part of the Vendor or the Trustee. However, the Vendor, if so requested by the Trustee at that time, will (a) execute an instrument releasing its security interest in the Equipment and transferring such interest to the Trustee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument to the Trustee 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 Trustee to the Equipment and (c) pay to the Trustee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Trustee 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 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 Trustee.

ARTICLE 6. TAXES

6.1. General Tax Indemnification. Whether or not any of the transactions contemplated hereby are consummated, the Trustee agrees to pay, and to indemnify and hold the Vendor harmless from, all taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Trustee, the Owners, the Vendor, the Lessee, the trust estate created by the Trust Agreement or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any unit of the Equipment or any part thereof; the purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings

arising therefrom; or this Agreement, the CSA Assignment, the Lease, the Lease Assignment, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to the Equipment (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); excluding, however: (i) Taxes of the United States or any state or political subdivision thereof and (if and to the extent that any person indemnified hereunder is entitled to a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Vendor, or franchise taxes to the extent measured by gross receipts or net income based on gross receipts of the Vendor, or gross receipts taxes other than gross receipts taxes in the nature of sales or use taxes, and other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Agreement, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or subdivision on its world-wide income without regard to the transactions contemplated by this Agreement shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed on or measured by any fees or compensation received by the Vendor; and (iii) Taxes which are imposed on or measured solely by the net income of the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Trustee has not agreed to pay or indemnify against pursuant to this Article 6; provided, however, that the Trustee shall not be required to pay any Taxes during the period the Trustee (or the Lessee on behalf of the Trustee) may be contesting the same in the manner provided in paragraph 6.2 hereof.

6.2. Claims; Contests; Refunds. If claim is made against the Vendor for any Taxes indemnified against under this Article 6, the Vendor shall promptly notify the Trustee. If reasonably requested by the Trustee in writing, the Vendor shall, upon receipt of any indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Trustee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or

judicial proceedings, or both. The Trustee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of the Vendor; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of the Vendor in any such proceeding or action) without the prior written consent of the Vendor. If the Vendor shall obtain a refund of all or any part of such Taxes previously reimbursed by the Trustee in connection with any such contest or an amount representing interest thereon, the Vendor shall pay the Trustee the amount of such refund or interest net of expenses; provided, however, that no event of default set forth in paragraph 16.1 hereof and no event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing.

6.3. Reports or Returns. In case any report or return is required to be made with respect to any obligation of the Trustee under or arising out of this Article 6, the Trustee shall either make such report or return in such manner as will show the interests of the Vendor in the Equipment or shall promptly notify the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Vendor. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Trustee.

6.4. Survival. All of the obligations of the Trustee under this Article 6 shall survive and continue, notwithstanding payment in full of all other amounts due under this Agreement.

6.5. Article 6 Subject to Articles 4 and 23. The obligations of the Trustee under this Article 6 are subject to the limitations contained in paragraph 4.8 hereof and in Article 23 hereof.

ARTICLE 7. MAINTENANCE AND CASUALTY OCCURRENCES

7.1. Maintenance. Subject to the limitations contained in Article 23 hereof, the Trustee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order, repair and condition, ordinary wear and tear excepted.

7.2. Casualty Occurrences. In the event that any unit of Equipment shall be or become worn out, lost, stolen,

destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever or the Purchase Price of any unit shall have been refunded by the Builder pursuant to the Builder's patent indemnities therefor as set forth in Item 4 of Annex A hereto or any unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of the Lease (any such occurrence being hereinafter called a "Casualty Occurrence"), the Trustee shall, promptly after it shall have received notice from the Lessee or has otherwise been informed 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 an installment on the CSA Indebtedness after such notice from the Lessee has been received (each such date hereinafter called a "Settlement Date"), the Trustee shall, subject to the limitations contained in paragraph 4.8 hereof, pay to the Vendor a sum equal to the Casualty Value (as defined in paragraph 7.3 hereof) of such unit suffering a Casualty Occurrence as of such Settlement Date, together with an amount equal to accrued interest thereon. The Trustee 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 on the date of such payment to prepay, without penalty or premium, ratably in accordance with the unpaid balance of each installment, the CSA Indebtedness, together with all interest accrued on the portion of the CSA Indebtedness being prepaid. The Trustee shall promptly cause to be furnished 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 Vendor and the Lessee may request, calculated as provided in paragraph 4.4 hereof.

7.3. Casualty Value. 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 referred to in paragraph 4.3(b) hereof 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). For the purpose of this paragraph and paragraph 7.4 hereof, each payment of the Purchase Price made pursuant to Article 4 hereof shall be deemed to be a payment

with respect to each unit of Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of all the Equipment.

7.4. Obligations upon Payment of Casualty Value.

Upon payment by the Trustee 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 Trustee, without further transfer or action on the part of the Vendor or the Trustee, and the provisions of the second and third sentences of paragraph 5.2 hereof shall apply.

ARTICLE 8. INSURANCE PROCEEDS AND CONDEMNATION PAYMENTS

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of any units suffering a Casualty Occurrence, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Trustee; provided, however, that no event of default shall have occurred and be continuing hereunder and the Trustee shall have made payment of the Casualty Value of such units, together with accrued interest thereon, to the Vendor. All insurance proceeds received by the Vendor in respect of any unit of Equipment not suffering a Casualty Occurrence shall be paid to the Trustee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 9. REPORTS AND INSPECTIONS

On or before March 31 in each year, commencing with the year 1980, the Trustee shall, subject to the provisions of Article 23 hereof, cause to be furnished to the Vendor an accurate statement to the effect set forth in § 8 of the Lease. The Vendor shall have the right, by its agents, to inspect the Equipment and the Trustee's and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10. MARKING OF EQUIPMENT

10.1. Marking of Equipment. The Trustee will cause each unit of the Equipment to be kept numbered and marked as provided in § 5 of the Lease. The Trustee 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 or on behalf of the Trustee in all public offices where this Agreement shall have been filed, recorded and deposited.

10.2. No Designations of Ownership. Except as provided in paragraph 10.1 hereof, the Trustee 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.

10.3. Article 10 Subject to Article 23. The obligations of the Trustee under this Article are subject to the limitations contained in Article 23 hereof.

ARTICLE 11. COMPLIANCE WITH LAWS AND RULES

11.1. Compliance with Laws and Rules. During the term of this Agreement, the Trustee 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 United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the 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 Trustee will or will cause the Lessee to conform there-

with at no expense to the Vendor; provided, however, that the Trustee 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.

11.2. Article 11 Subject to Article 23. The obligations of the Trustee under this Article are subject to the limitations contained in Article 23 hereof.

ARTICLE 12. POSSESSION AND USE

12.1. Possession and Use of Equipment by Trustee. The Trustee, 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 Trustee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

12.2. Lease Permitted; Lease Subordinate; No Amendment or Termination. The Trustee simultaneously with the execution hereof is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns 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 in any material respect or terminated (except in accordance with § 4 thereof) without the prior written consent of the Vendor.

12.3. Other Leases of Equipment. Subject to the rights of the Lessee under the Lease, the Trustee may also lease the Equipment to any other entity, 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 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

13.1. Trustee To Discharge Liens. The Trustee will pay or discharge any and all sums claimed by any party from, through or under the Trustee 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.

13.2. No Breach for Certain Liens. 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.

13.3. Article 13 Subject to Article 23 Except in Certain Instances. The obligations of the Trustee under this Article 13 are subject to the limitations contained in Article 23 hereof; provided, however, that the Trustee will pay or discharge any and all claims, liens, charges or security interests claimed by any party from, through or under the Trustee or its successors or assigns, and to the extent it has in the Trust Estate or receives funds sufficient for such purpose from each Owner, from, through or under such Owner and its successors and assigns, not arising out of the transactions contemplated hereby or in other documents mentioned herein (but including tax liens arising out of the receipt of the income and proceeds from the Equipment), equal or superior to the Vendor's security interest therein, but the Trustee shall not be required to pay or discharge any such claim, lien, charge or security interest 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 adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement.

ARTICLE 14. INDEMNITIES AND WARRANTIES

14.1. Indemnification. The Trustee shall pay, and shall protect, indemnify and hold the Vendor and any assignee hereof, and their respective successors, assigns, agents and servants ("Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses [including without limitation attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising, or alleged to arise out of this Agreement or the Equipment, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any unit of Equipment or portion thereof, (ii) any latent and other defects whether or not discoverable by the Trustee or the Vendor, (iii) any claim for patent, trademark or copyright infringement, (iv) any claims based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the Equipment or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Equipment or of any other equipment in connection with the Equipment (whether owned or under the control of the Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Agreement or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Equipment or the leasing, ownership, use, replacement, adaptation or maintenance thereof; or (vii) any claim arising out of the Vendor's retention of a security interest under this Agreement or the Lease Assignment; except that the Trustee shall not be liable to the Builder in respect of any of the foregoing matters to the extent liability in respect thereof arises from an act or omission of the Builder or is covered by the Builder's patent indemnification referred to in paragraph 14.4 hereof. The Trustee shall be obligated under this Article 14, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking

to enforce the indemnification may proceed directly against the Trustee under this Article 14 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Trustee may and, upon such Indemnified Person's request, will at the Trustee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Trustee and approved by such Indemnified Person and, in the event of any failure by the Trustee to do so, the Trustee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Trustee is required to make any payment under this Article 14, the Trustee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Vendor and the Trustee agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article 14 by the Trustee, and provided that no event of default set forth in paragraph 16.1 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, it shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (other than the Trustee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to the Lease shall be paid over to the Trustee to the extent necessary to reimburse the Trustee for indemnification payments previously made in respect of such matter.

14.2. Survival; No Subrogation. The indemnities contained in this Article 14 shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or exist-

ing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article 14 shall be deemed to create any rights of subrogation in any insurer or third party against the Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

14.3. Trustee Not Released If Equipment Damaged or Lost. The Trustee 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.

14.4. Warranties of Builder; Patent Indemnities; Subject to Article 23. The agreement of the parties relating to the Builder's warranties 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 Builder represents and warrants that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Builder will have good and marketable title to such Unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights created by this Agreement, the CSA Assignment and the Lease. The obligations of the Trustee pursuant to paragraphs 14.1, 14.2 and 14.3 hereof are subject to the provisions of Article 23 hereof.

ARTICLE 15. ASSIGNMENTS

15.1. Assignment by Trustee. Except as provided in Article VII of the Trust Agreement, the Trustee 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.

15.2. Assignment by Vendor. 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 Trustee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. 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 Trustee of its obligations to the Builder contained in Articles 2, 3, 4, 6 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.

15.3. Notice of Assignment by Vendor. Upon any such assignment, either the assignor or the assignee shall give written notice to the Trustee, 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 Trustee of the notification of any such assignment, all payments thereafter to be made by the Trustee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

15.4. No Set-Off Against Indebtedness. The Trustee expressly represents, 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 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, set-off, counterclaim or recoupment whatsoever by the Trustee 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, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Trustee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Trustee against and only against the Builder.

ARTICLE 16. DEFAULTS

16.1. Events of Default; Termination of Lease; Declaration of Default; Acceleration. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Trustee shall fail to pay or cause to be paid in full any sum payable by the Trustee 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 Trustee) and such default shall continue for 15 days after the date such payment is due and payable; or

(b) the Trustee 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 provision of this Agreement (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Trustee), the Lease Assignment or any provision of the Participation Agreement made expressly for the benefit of the Vendor, 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 hereafter amended or under any other provision of Title 11 of the United States Code, as now constituted or as 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 the 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 or by the trustee in such proceedings in accordance with the provisions of 11 U.S.C. § 1168, or any successor provision, as the same may hereinafter be amended; or

(d) any other proceeding shall be commenced by or against the Trustee or the Lessee for any relief which

includes, or might result in, any modification of the obligations of the Trustee hereunder or the Lessee under the Lease 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 Trustee under this Agreement or the Lessee under the Lease), 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 Trustee under this Agreement or the Lessee under the 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 or receiver or receivers appointed (whether or not subject to ratification) for the Trustee 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;

then at any time after the occurrence of such an event of default the Vendor may, upon five days' written notice to the Trustee 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 Trustee acknowledges the right of the Vendor to terminate the term of the Lease), provided, however, that such termination shall not be in derogation of or impair the rights of the Trustee or the Vendor (under the assignment thereof), as the case may be, to enforce compliance by the Lessee with any of its covenants and agreements under the Lease or to enforce any of its rights and remedies under § 13 of the Lease (subject to the Vendor's rights to repossess and sell the Equipment as provided in this Agreement), including the rights of the Trustee or the Vendor (under the assignment thereof), as the case may be, to sue for and recover damages provided for in § 13 of the Lease upon the occurrence of an event of default under the Lease, and/or (ii) declare (hereinafter called a "Declaration of Default") the entire unpaid CSA Indebtedness,

together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the CSA Indebtedness and interest shall bear interest from the date of such Declaration of Default at the Penalty Rate 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 CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Trustee, subject to the provisions of Articles 4 and 23 hereof, wherever situated.

If an Event of Default under § 13 of the Lease shall occur, the Trustee shall have the option, for a period of 30 days after the commencement of such Event of Default, to prepay all, but not less than all, the then outstanding CSA Indebtedness plus interest accrued to the date of such payment, and the obligations upon payment of the CSA Indebtedness in paragraph 5.2 hereof shall apply; it being understood and agreed, however, that unless the Trustee has unconditionally agreed with the Vendor (by written notice to the Vendor) to exercise such option, the Vendor may exercise all of its rights and remedies upon the occurrence of an event of default under this Agreement.

16.2. Waiver of Defaults. 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 Trustee 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. It is agreed that time is of the essence of this Agreement and 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

17.1. Vendor May Take Possession of Equipment. 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 Trustee 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 Trustee, the Lessee or any other person and for such purpose may enter upon the premises of the Trustee 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 Trustee or the Lessee, subject to all mandatory requirements of due process of law.

17.2. Assembling of Equipment for Vendor. In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Trustee shall, subject to the provisions of Article 4 and Article 23 hereof, 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 or which may have possession thereof to return the unit or units) place such units upon such storage tracks as the Vendor reasonably may designate;

(b) cause such units to be stored on such tracks without charge for insurance, rent or storage until all such units of Equipment have been sold, leased or otherwise disposed of by the Vendor; 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 Vendor.

During any storage period, the Lessee has agreed pursuant to § 14.1 of the Lease, at its own cost and expense, to insure, maintain and keep each such unit in good order and repair and to 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 to the agreement between the parties, and the Trustee acknowledges that upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled under the Lease as assignee of the rights of the Trustee thereunder to a decree against the Lessee requiring specific performance hereof. The Trustee hereby waives 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.

17.3. Vendor May Dispose of or Retain Equipment.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore provided) may, at its election, retain the Equipment in satisfaction of the entire CSA 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 Trustee 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 Trustee's rights in the Equipment shall thereupon terminate and all payments made by the Trustee may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Trustee, 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 CSA 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 Trustee; provided, further, that if the Trustee, 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.

17.4. Vendor May Sell Equipment; Trustee's Right of Redemption. 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 Trustee, 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 Trustee, the Lessee or any other party claiming from, through or under the Trustee 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 Trustee should tender full payment of the total unpaid balance of the CSA 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 Trustee. The proceeds of such sale or other disposition, less any reasonable attorneys' fees 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.

17.5. Sale of Equipment by Vendor. 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 Trustee or the Lessee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Trustee 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. In addition, 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 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Trustee 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 Trustee (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.

17.6. Effect of Remedies and Powers and Exercise Thereof. 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 not inconsistent herewith, 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 Trustee shall not otherwise alter or affect the Vendor's rights or the Trustee'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 Trustee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

17.7. Deficiencies. 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 Trustee shall, subject to the limitations of paragraph 4.8 and Article 23 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 Penalty Rate, and, if the Trustee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of paragraph 4.8 and Article 23 hereof, be entitled to recover a judgment therefor against the Trustee. 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 Trustee.

17.8. Expenses. The Trustee will pay all reasonable fees, costs and 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 paragraph 4.8 and Article 23 hereof.

17.9. Remedies Subject to Legal Requirements. 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

18.1. Conflicts with State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction 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 Trustee 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.

18.2. Waiver of Notices. Except as otherwise provided in this Agreement, the Trustee, to the full extent permitted by law, hereby waives 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 and any and all rights of redemption.

ARTICLE 19. RECORDING

Subject to the provisions of Article 23 hereof, the Trustee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed with the Interstate Commerce Commission pursuant

to 49 U.S.C. 11303(a); and the Trustee 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 Trustee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20. BUILDER'S REPRESENTATIONS AND WARRANTIES

The Builder hereby represents and warrants to the Trustee, its successors and assigns, that this Agreement is duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Trustee, this Agreement is, insofar as the Builder is concerned, a legal, valid and binding agreement, enforceable against the Builder in accordance with its terms.

ARTICLE 21. HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT

21.1. Article and Paragraph Headings for Convenience Only. All article and paragraph headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

21.2. Effect and Modification of Agreement. Except for the Participation Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Trustee 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 and the Trustee.

ARTICLE 22. NOTICE

Any notice hereunder to any of the parties desig-

nated 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 Trustee, at P.O. Box 2258, Baltimore, Maryland 21203, attention of Corporate Trust Department, with a copy to each of the Owners at their respective addresses set forth in Appendix II of the Participation Agreement,

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

(c) to any assignee of the Vendor, or of the Trustee, at such address as may have been furnished in writing to the Trustee, or the Vendor, as the case may be, 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

23.1. No Recourse Against Certain Persons. 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 either Owner, 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.

23.2. Satisfaction of Certain Covenants. The obligations of the Trustee under paragraphs 7.1, 17.2, 17.7 and 17.8 and under Articles 6, 9, 10, 11, 13, 14

and 19 hereof and any and all obligations at any time arising thereunder shall be deemed satisfied in full in all respects (except, in the case of Article 13 hereof, as set forth in paragraph 13.3 thereof) by the Lessee's execution and delivery of the Lease. The Trustee 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; provided, however, that the Vendor shall consent to any agreement in writing between the Lessee and the Trustee increasing or decreasing the rentals or casualty values payable pursuant to §§ 3 and 7 of the Lease so long as the amounts payable thereunder are not reduced below those necessary to satisfy the obligations of the Trustee hereunder, such consent to be given by the Vendor within 30 days of delivery of a copy of any such agreement to the Vendor.

23.3. No Personal Liability of Trustee. Anything herein to the contrary notwithstanding, each and all of the representations and agreements herein made on the part of the financial institution acting as Trustee are each and every one of them made not as personal representations and agreements by said financial institution or for the purpose of binding said financial institution 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 said financial institution solely in the exercise of the powers conferred upon said financial institution as trustee under the Trust Agreement; and no personal liability or responsibility is assumed by or shall at any time be asserted or enforceable against said financial institution hereunder (except as provided in paragraph 13.3 hereof) on account of any representation or agreement of the Trustee hereunder (except as provided in paragraph 13.3 hereof), either expressed or implied, all such personal liability, if any, being 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. Nothing contained in this Section 23.3 shall limit or impair the rights of the Vendor to take all actions to enforce the rights and remedies provided for herein and to bring suit and obtain a judgment against the Trustee (provided that the Trustee in its fiduciary or individual capacity shall not have any personal liability on any such judgment and the satisfaction thereof shall be limited to the Trust Estate, including any interest therein of the Trustee or the Owners) or to foreclose the lien and security interest created by this Agreement or otherwise realize upon the Trust Estate, including the right to proceed against the Equipment or the Lessee under the Lease.

The Trustee agrees not to enter into any supplement or amendment of the Trust Agreement except as provided in Section 8.01 thereof as in effect on the date of execution and delivery hereof.

ARTICLE 24. LAW GOVERNING

This Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Maryland; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. 11303, such additional rights, if any, arising out of the filing, recording or deposit hereof 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 or in which any unit of Equipment shall be located, and such rights, if any, arising out of the marking of Equipment.

ARTICLE 25. EXECUTION

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, 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.

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

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, not in its individual capacity, but solely as Trustee as aforesaid,

[Seal]

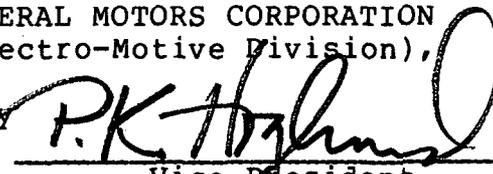
by 
Assistant Vice President

Attest:


Corporate Trust Officer

GENERAL MOTORS CORPORATION
(Electro-Motive Division),

[Corporate Seal]

by 
Vice President

Attest:


Assistant Secretary

STATE OF MARYLAND,)
) ss.:
CITY OF BALTIMORE,)

On this *9th* day of *February* 1979, before me personally appeared **G. J. Johnston**, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Patricia A. Hilow

Notary Public

[Notarial Seal]

My Commission expires *7-1-82*

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

On this *16th* day of *FEBRUARY* 1979, before me personally appeared **P. K. HOGLUND**, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Division), 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.

[Signature]

Notary Public

[Notarial Seal]

My Commission expires *1-17-83*

SCHEDULE I

Allocation Schedule of Each \$1,000,000 of CSA
Indebtedness Payable in (i) One Interim Payment
of Interest Only on August 1, 1979, and
(ii) 30 Semiannual Installments of Principal
and Interest Commencing February 1, 1980

<u>Installment No.</u>	<u>Total Payment</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Ending Principal</u>
(8/1/79) \$	*	\$ *	\$ -0-	\$1,000,000.00
1 (2/1/80)	66,174.00	47,500.00	18,674.00	981,326.00
2 (8/1/80)	66,174.00	46,612.98	19,561.02	961,764.98
3 (2/1/81)	66,174.00	45,683.84	20,490.16	941,274.82
4 (8/1/81)	66,174.00	44,710.55	21,463.45	919,811.37
5 (2/1/82)	66,174.00	43,691.04	22,482.96	897,328.41
6 (8/1/82)	66,174.00	42,623.10	23,550.90	873,777.51
7 (2/1/83)	66,174.00	41,504.43	24,669.57	849,107.94
8 (8/1/83)	66,174.00	40,332.63	25,841.37	823,266.57
9 (2/1/84)	66,174.00	39,105.16	27,068.84	796,197.73
10 (8/1/84)	66,174.00	37,819.39	28,354.61	767,843.12
11 (2/1/85)	66,174.00	36,472.55	29,701.45	738,141.67
12 (8/1/85)	66,174.00	35,061.73	31,112.27	707,029.40
13 (2/1/86)	66,174.00	33,583.90	32,590.10	674,439.30
14 (8/1/86)	66,174.00	32,035.87	34,138.13	640,301.17
15 (2/1/87)	66,174.00	30,414.31	35,759.69	604,541.48
16 (8/1/87)	66,174.00	28,715.72	37,458.28	567,083.20
17 (2/1/88)	66,174.00	26,936.45	39,237.55	527,845.65
18 (8/1/88)	66,174.00	25,072.67	41,101.33	486,744.32
19 (2/1/89)	66,174.00	23,120.36	43,053.64	443,690.68
20 (8/1/89)	66,174.00	21,075.31	45,098.69	398,591.99
21 (2/1/90)	54,096.91	18,933.12	35,163.79	363,428.20
22 (8/1/90)	54,096.91	17,262.84	36,834.07	326,594.13
23 (2/1/91)	45,526.36	15,513.22	30,013.14	296,580.99
24 (8/1/91)	45,526.36	14,087.60	31,438.76	265,142.23
25 (2/1/82)	39,135.00	12,594.26	26,540.74	238,601.49
26 (8/1/92)	39,135.00	11,333.57	27,801.43	210,800.06
27 (2/1/93)	52,659.17	10,013.00	42,646.17	168,153.89
28 (8/1/93)	52,659.17	7,987.31	44,671.86	123,482.03
29 (2/1/94)	66,174.00	5,865.40	60,308.60	63,173.43
30 (8/1/94)	66,174.17	3,000.74	63,173.43	0.00
	\$1,838,663.05	\$838,663.05	\$1,000,000.00	

* Interest only on the Indebtedness shall be paid to the extent accrued on this date.

Annex A
to
Conditional Sale Agreement

Item 1: General Motors Corporation (Electro-Motive Division), La Grange, Illinois 60525 (hereinafter called "EMD").

Item 2: The Schedule A Equipment shall be settled for in no more than four Groups: the first Group shall be settled for on or after March 15, 1979; the second Group on or after April 13, 1979; the third Group on or after May 15, 1979; and the fourth Group on or after June 15, 1979, and on or before July 31, 1979, unless the parties otherwise agree.

The Schedule B Equipment shall be settled for in one Group on or after July 15, 1979, and on or before December 29, 1979, unless the parties otherwise agree.

Item 3: EMD warrants that the Equipment manufactured by it hereunder is of the kind and quality described in, or will be built in accordance with, the Specifications referred to in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (this "Agreement") and is suitable for the ordinary purposes for which such Equipment is used and warrants each unit of such Equipment to be free from defects in material and workmanship which may develop under normal use and service within two years from date of delivery of such unit or before such unit has been operated 250,000 miles, whichever event shall first occur. EMD agrees to correct such defects, which examination shall disclose to EMD's satisfaction to be defective, by repair or replacement F.O.B. factory and such correction shall constitute fulfillment of EMD's obligation with respect to such defect under this warranty.

EMD warrants specialties not of its own specification or design to the same extent that the suppliers of such specialties warrant such items to EMD.

EMD further agrees with the Trustee that neither the inspection as provided in Article 3 of this Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or modification

by the Trustee of any of its rights under this Item 3.

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

In case any unit of such Equipment, or any part thereof, is in such suit held to constitute infringement and the use of such unit or part is enjoined, EMD shall at its option and at its own expense either procure for the Trustee, the Lessee and any such assignee the right to continue using such unit or part, or replace the same with noninfringing equipment subject to this Agreement, or modify it so it becomes noninfringing, or remove such unit and refund the Purchase Price and the transportation and installation costs thereof. If the Purchase Price is so refunded, such refund shall be made to the assignee of EMD's rights under this Agreement if this Agreement has been so assigned, which refund, to the extent of the unpaid CSA Indebtedness, shall be applied in like manner as payments in respect of Casualty Occurrences under Article 7 of this Agreement and, as long as no event of default or event which with the lapse of time and/or demand could constitute an event of default under this Agreement shall have occurred and be continuing, the balance shall be paid by such assignee to the Trustee.

EMD will assume no liability for patent infringement by reason of purchase, manufacture, sale or use of devices not included in and covered by its specification.

- Item 5: The Maximum Purchase Price referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is \$17,100,000 plus 100/66ths of the amount, if any, by which the Investors' investments are increased pursuant to Paragraph 2 of the Participation Agreement.

Annex B
to
Conditional Sale Agreement

<u>Type</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessee's Identification Numbers (Both Inclusive)</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
40-2 000 p. esel ectric co- otive	8091	La Grange, Illinois	25	750-774	\$582,000	\$14,550,000	April-June, 1979 at McCook, Illinois
38-2 000 esel ectric comotive	8086	La Grange, Illinois	4	296-299	637,500	2,550,000	June, 1979 at McCook, Illinois
			— 29			————— \$17,100,000	

[CS&M Ref. 2043-854]

LEASE OF RAILROAD EQUIPMENT

Dated as of January 1, 1979

Between

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY,

as Lessee,

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
not in its individual capacity but solely as
Trustee under a Trust Agreement dated the date
hereof, with General Electric Credit Corporation
and J. P. Morgan Interfunding Corp.,

as Lessor.

LEASE OF RAILROAD EQUIPMENT

TABLE OF CONTENTS*

	<u>Page</u>
SECTION 1. NET LEASE	L-2
SECTION 2. DELIVERY	L-3
2.1. Delivery and Acceptance of Units	L-3
2.2. Designation of Schedule A and Schedule B Units	L-3
SECTION 3. RENTALS	L-3
3.1. Amount and Date of Payment	L-3
3.2. Payments on Nonbusiness Days	L-5
3.3. Instructions To Pay Vendor and Trustee	L-5
3.4. Payment in Immediately Available Funds	L-6
SECTION 4. TERM OF LEASE	L-6
4.1. Beginning and Termination; Survival	L-6
4.2. Rights and Obligations of Lessee Subject to CSA	L-6
SECTION 5. IDENTIFICATION MARKS	L-6
5.1. Identifying Numbers; Legend; Changes	L-6
5.2. Insignia of Lessee	L-7
SECTION 6. GENERAL TAX INDEMNIFICATION	L-7
SECTION 7. PAYMENT FOR CASUALTY OCCURRENCES; INSURANCE	L-10

* This Table of Contents has been included in this document for convenience only and does not form a part of, or affect any construction or interpretation of this document.

	<u>Page</u>
7.1. Definitions of Casualty Occurrence; Payments	L-10
7.2. Requisition by United States Government	L-12
7.3. Lessee Agent for Disposal	L-12
7.4. Payments After Expiration of Lease	L-12
7.5. Amount of Casualty Value for Schedule A Units	L-12
7.6. Amount of Casualty Value for Schedule B Units	L-13
7.7. No Release	L-13
7.8. Insurance To Be Maintained	L-13
7.9. Insurance Proceeds and Condemnation Payments	L-14
SECTION 8. REPORTS	L-15
SECTION 9. DISCLAIMER OF WARRANTIES	L-15
SECTION 10. LAWS AND RULES	L-16
10.1. Compliance	L-16
10.2. Reports by Trustee	L-17
SECTION 11. MAINTENANCE	L-17
11.1. Units in Good Operating Order	L-17
11.2. Additions and Accessions	L-17
SECTION 12. INDEMNIFICATION	L-18
12.1. Indemnified Persons	L-18
12.2. Indemnification of Builder	L-20
12.3. Survival	L-20
SECTION 13. DEFAULT	L-20
13.1. Events of Default; Remedies	L-20
13.2. Remedies Not Exclusive; Waiver	L-24
13.3. Failure To Exercise Right Is Not Waiver	L-24
SECTION 14. RETURN OF UNITS UPON DEFAULT	L-24
14.1. Return of Units	L-24
14.2. Trustee Appointed Agent of Lessee	L-25

	<u>Page</u>
SECTION 15. ASSIGNMENT, POSSESSION AND USE	L-26
15.1. Assignment; Consent	L-26
15.2. Lessee's Rights To Use the Units, To Permit Use Thereof by Others and To Sublease the Units	L-26
15.3. Transfers by Lessee Through Merger, Acquisition or Consolidation	L-27
SECTION 16. RENEWAL OPTIONS	L-28
16.1. Renewal for Successive Periods	L-28
16.2. Determination of Fair Market Rental	L-28
SECTION 17. RETURN OF UNITS UPON EXPIRATION OF TERM	L-29
SECTION 18. RECORDING	L-30
SECTION 19. INTEREST ON OVERDUE RENTALS	L-31
SECTION 20. TRUSTEE'S RIGHT TO PERFORM FOR THE LESSEE	L-31
SECTION 21. NOTICES	L-31
SECTION 22. SEVERABILITY	L-32
SECTION 23. EFFECT AND MODIFICATION OF LEASE	L-32
SECTION 24. THIRD PARTY BENEFICIARIES	L-32
SECTION 25. EXECUTION	L-32
SECTION 26. LAW GOVERNING	L-33
SECTION 27. IMMUNITIES; NO RECOURSE	L-33
SECTION 28. AGREEMENTS FOR BENEFIT OF OWNER AND TRUSTEE'S ASSIGNS	L-34
SECTION 29. TERM TRUSTEE	L-34
APPENDIX A Units Leased	L-37
APPENDIX B Schedule of Casualty Values	L-38

LEASE OF RAILROAD EQUIPMENT dated as of January 1, 1979, between ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY, a Missouri corporation (the "Lessee"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland banking corporation, acting not in its individual capacity but solely as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with GENERAL ELECTRIC CREDIT CORPORATION and J. P. MORGAN INTERFUNDING CORP. (collectively the "Owners" and severally the "Owner").

WHEREAS the Trustee is entering into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with GENERAL MOTORS CORPORATION (Electro-Motive Division), a Delaware corporation (the "Builder"), wherein the Builder has agreed to manufacture, sell and deliver to the Trustee the units of railroad equipment described in Appendix A hereto;

WHEREAS the Builder is assigning its interests in the CSA pursuant to an Agreement and Assignment dated the date hereof (the "CSA Assignment") to THE BOATMEN'S NATIONAL BANK OF ST. LOUIS, acting as agent for certain investors under a Participation Agreement dated as of the date hereof (the "Participation Agreement") among said agent, the Lessee, the Trustee, the Owners and the parties named in Appendix I thereto (the "Investors") (said agent as so acting, being hereinafter, together with its successors and assigns, called the "Vendor");

WHEREAS the Lessee desires to lease such number of units of the railroad equipment as are delivered and accepted under the CSA (the "Units") at the rentals and for the terms and upon the conditions hereinafter provided;

WHEREAS the Trustee will assign this Lease for security to the Vendor pursuant to an Assignment of Lease and Agreement (the "Lease Assignment") dated as of the date hereof;

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

§ 1. NET LEASE

This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein specifically provided, the Lessee shall not be entitled to any abatement of rent or such other amounts, reduction thereof or setoff against rent or such other amounts, 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 Trustee or the Owners under this Lease or the CSA including the Lessee's rights by subrogation thereunder to the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Trustee 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 Trustee, the Owners or the Vendor for any reason whatsoever.

§ 2. DELIVERY

2.1. Delivery and Acceptance of Units. The Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. Each delivery of a Unit to the Trustee under the CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is so delivered to the Trustee. 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 on behalf of the Trustee under the CSA and on behalf of itself hereunder and execute and deliver to the Trustee a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Trustee on the date of such Certificate of Acceptance and is marked in accordance with § 5.1 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.

2.2. Designation of Schedule A and Schedule B Units. All Units which are delivered and accepted hereunder on or prior to June 30, 1979, shall be called Schedule A Units; all Units which may be delivered and accepted hereunder after June 30, 1979, and on or prior to December 15, 1979, shall be called Schedule B Units. If there are in fact any Schedule B Units, the Trustee and the Lessee shall enter into a supplement hereto promptly after final settlement for all Units (i) setting forth the road numbers of the Units which are designated Schedule A and Schedule B Units, and (ii) setting forth the actual rentals and Casualty Values for the Schedule B Units determined as provided in § 3.1(2) and § 7.6 hereof.

§ 3. RENTALS

3.1. Amount and Date of Payment. (1) The Lessee agrees to pay to the Trustee, as rental for each Schedule A Unit subject to this Lease, one interim rental payment on August 1, 1979, and 30 consecutive semiannual payments payable, in arrears, on February 1 and August 1 in each year, commencing February 1, 1980, to and including August 1, 1994. In respect of each Schedule A Unit subject to this Lease, (a) the interim rental payment shall be in an amount equal to the product of the Purchase Price (as

defined in paragraph 4.1 of the CSA) for each such Schedule A Unit subject to this Lease multiplied by 0.02639% for each day (computed on the basis of a 360-day year of twelve 30-day months) elapsed from the Closing Date (as defined in paragraph 4.2 of the CSA) for such Unit to, but not including, August 1, 1979, and (b) the 30 semiannual rental payments shall each be in an amount equal to 4.44214% of the Purchase Price of each such Schedule A Unit; provided, however, that none of such rental payments shall be in an amount less than that which is necessary to satisfy the obligations of the Trustee under paragraphs 4.3(b) and 4.4 of the CSA.

(2) The Lessee agrees to pay to the Trustee, as rental for each Schedule B Unit subject to this Lease, one interim rental payment on February 1, 1980, and 29 consecutive semiannual payments payable, in arrears, on February 1 and August 1 in each year, commencing August 1, 1980, to and including August 1, 1994. In respect of each Schedule B Unit subject to this Lease, (a) the interim rental payment shall be an amount equal to (i) the product of the Purchase Price for each such Schedule B Unit subject to this Lease multiplied by 0.02639% for each day (computed on the basis of a 360-day year of twelve 30-day months) elapsed from the Closing Date for such Unit to, but not including, February 1, 1980, plus (ii) an amount equal to 1.232484% of the Purchase Price of each such Schedule B Unit, and (b) the 29 semiannual payments shall be in a sum equal to the amount as shall, in the reasonable opinion of each Owner, cause such Owner's after-tax economic yields and cash flows (computed on the same assumptions, including tax rates, as were utilized by such Owner in originally evaluating this transaction) to equal the after-tax economic yields and cash flows (such economic yields and cash flows being hereinafter called the "Net Economic Return") that would have been realized by such Owner if such Schedule B Unit had been delivered and accepted on or prior to June 30, 1979; provided, however, that no such computation shall reduce the amount of rentals below that which is necessary to satisfy the obligations of the Trustee under paragraphs 4.3(b) and 4.4 and under Article 7 of the CSA and that such schedule of rentals be provided to the Lessee and the Vendor promptly after the Closing Date for the Schedule B Units. In the event that any dispute should arise as to the calculation of such rentals (or the Casualty Value of the Schedule B Units under § 7.6 hereof), the Lessee agrees, pending resolution of such dispute, to pay on account of such rentals (or such Casualty Value), on the dates due hereunder, amounts at least sufficient to satisfy the obligations of the Trustee under the CSA and no such payment shall, as between the Trustee and the Lessee, prejudice

the right of the Trustee to receive from the Lessee any amount in addition thereto, due and payable hereunder.

(3) In the event that there is any loss or liability arising out of or resulting from the Investments made pursuant to Paragraph 2 of the Participation Agreement, including, but not limited to, any Investment Deficiency in respect thereof, the rentals payable by the Lessee after the amount of such loss or liability shall be determined shall be increased by such amounts as shall, in the reasonable opinion of each Owner, cause such Owner's Net Economic Return to equal the Net Economic Return that would have been realized by such Owner if such loss or liability had not occurred.

(4) In addition to the foregoing rentals, the Lessee will pay to the Trustee as additional rent amounts equal to the amounts required by the Trustee to make the payments provided for in the last sentence of the first paragraph and in the last paragraph of Paragraph 9 of the Participation Agreement on the dates required for such payments in said Paragraph 9 (without regard to the limitation of the obligation of the Trustee set forth therein) and the Trustee agrees to apply such rentals for such purposes.

3.2. Payments on Nonbusiness Days. If any of the semiannual rental payment dates referred to in § 3.1 is not a business day the semiannual rental payment otherwise payable on such date shall be payable on the next 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 St. Louis, Missouri, Baltimore, Maryland, or New York, New York, are authorized or obligated to remain closed.

3.3. Instructions To Pay Vendor and Trustee. Upon execution and delivery of the Lease Assignment and until the Vendor shall have advised the Lessee in writing that all sums due from the Trustee under the CSA have been fully satisfied and discharged, the Trustee irrevocably instructs the Lessee to make all the payments provided for in this Lease to the Vendor, for the account of the Trustee, in care of the Vendor, with instructions to the Vendor (a) first to apply such payments to satisfy the obligations of the Trustee under the CSA known to the Vendor to be due and payable on the date such payments are due and payable hereunder and (b) second, so long as no event of default under the CSA shall have occurred and be continuing, to pay any balance promptly to the Trustee or to the order of the Trustee at such place as

the Trustee shall specify in writing. If the Lease Assignment is not executed and delivered, or if the Lessee shall have been advised by the Vendor in writing that all sums due from the Trustee under the CSA have been fully discharged and satisfied, the semiannual installments of rental due hereunder and any Casualty Payments thereafter due pursuant to § 7 hereof shall be made to the Trustee in the manner provided in § 3.4 hereof.

3.4. Payment in Immediately Available Funds. The Lessee agrees to make each payment provided for herein as contemplated by § 3.1 in immediately available funds at or prior to 11:00 a.m. in the city where such payment is to be made.

§ 4. TERM OF LEASE

4.1. Beginning and Termination; Survival. The term of this Lease as to each Unit shall begin on the date of delivery of such Unit under the CSA and, subject to the provisions of §§ 7, 13 and 16 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3.1 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 10, 11, 12 and 17 hereof) shall survive the expiration of the term of this Lease.

4.2. Rights and Obligations of Lessee Subject to CSA. Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the CSA. If an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease survive the termination of its term, all as provided herein.

§ 5. IDENTIFICATION MARKS

5.1. Identifying Numbers; Legend; Changes. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto, or in the case of any Unit not there listed such identification 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 with the Interstate Commerce Commission", or other appropriate words designated by the Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Trustee's and Vendor's title to and property in such Unit and the rights of the Trustee under this Lease and of the rights of the Vendor under the CSA. 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, obliterated or destroyed. The Lessee will not change the identification 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 Trustee and filed, recorded and deposited by the Lessee in all public offices where this Lease and the CSA shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Trustee an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Trustee's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Trustee in such Units. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

5.2. Insignia of Lessee. Except as provided in § 5.1, 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. GENERAL TAX INDEMNIFICATION

Whether or not any of the transactions contemplated hereby are consummated, the Lessee assumes responsibility for and agrees to pay, and agrees to protect, save, keep harmless and indemnify on an after-tax basis the Trustee and the Vendor and their successors and assigns (the "Indemnified Persons") against, all taxes, assessments, fees, withholdings and other governmental charges of any nature whatsoever, including without limitation penalties and interest (all such taxes, assessments, fees, withholdings, governmental charges,

penalties and interest being hereinafter called "Taxes"), imposed on, incurred by or asserted against any Indemnified Person or any Unit in whole or in part on account of, or with respect to, this Lease or the CSA or any document referred to herein or therein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Units or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, operation, maintenance, repair, condition, sale, return, or other disposition of the Units or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall be no indemnification hereunder for any Taxes imposed on or measured by any fees or compensation received by the Trustee or the Vendor. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this § 6 within ten days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question; provided, however, that if any Taxes are being contested in accordance with the sixth paragraph of this § 6, any payment shall be made at the time therein provided.

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

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

Trustee therefor) of such taxes, fees and charges except as provided above. To the extent that the Trustee has information necessary to the preparation of such returns, statements and reports, it will furnish such information to the Lessee.

To the extent that the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Trustee hereby authorizes the Lessee to act in the name of the Trustee and on its behalf; provided, however, that the Lessee shall indemnify and hold the Trustee 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 reasonably requested by the Trustee, submit to the Trustee copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Trustee of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Trustee reasonably may require to permit its compliance with the requirements of taxing jurisdictions.

If any taxing authority shall assert liability for any Taxes or propose an increase in the liability of any Indemnified Person for any such Taxes (such assertion or such proposed increase being hereinafter called a "Claim"), indemnification for which would be required under this § 6, the Indemnified Person will notify the Lessee within a reasonable time of such Claim in writing. If the Lessee delivers to such Indemnified Person written notice of its desire to contest such Claim within 30 days after receipt of notice from such Indemnified Person, such Claim will be contested in accordance with this paragraph, except to the extent such Claim represents amounts payable to the Vendor under Article 6 of the CSA. The Trustee will permit the Lessee to contest such Claims under Article 6 of the CSA in accordance with the rights of the Trustee thereunder. The Indemnified Person shall have the exclusive right to conduct the contest unless such is waived in writing, in which event the contest and all preparations therefor shall be the sole responsibility of the Lessee and, in either case, shall be conducted entirely at its expense. Such Indemnified Person will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that such Indemnified Person may in its sole discretion determine in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit

for refund, and such Indemnified Person shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify such Indemnified Person in a manner satisfactory to such Indemnified Person for any liability or loss which such Indemnified Person may incur as a result of contesting the validity of any Claim and shall have agreed to pay such Indemnified Person on demand all costs and expenses which such Indemnified Person may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to such Indemnified Person on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by any Indemnified Person of a refund of any Taxes paid by the Lessee pursuant to this paragraph, the amount of such refund and any interest paid to such Indemnified Person with respect thereto shall be paid to the Lessee forthwith upon receipt by such Indemnified Person.

The Lessee agrees to pay all amounts due under this § 6 free of any Taxes and to indemnify each Indemnified Person against any Taxes imposed by reason of any payment made by the Lessee so that the Indemnified Person to whom or for whose benefit the payment is made shall receive an amount which, net of any Taxes or other charges required to be paid by such Indemnified Person in respect thereof, shall be equal to the amount of payment otherwise required hereunder.

All of the obligations of the Lessee under this § 6 shall survive and continue notwithstanding the expiration of this Lease.

(The Lessee has agreed under a separate Indemnity Agreement dated as of the date hereof, to indemnify each Owner in a manner similar to the above and in certain other respects.)

§ 7. PAYMENT FOR CASUALTY OCCURRENCES; INSURANCE

7.1. Definitions of Casualty Occurrence; Payments.
In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever during the term of this Lease or any renewal term hereof or until such Unit is returned pursuant to §§ 14 or 17 hereof, or the Purchase Price of any Unit shall have been

refunded by the Builder of such Unit pursuant to the terms of its patent indemnity therefor or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease (any such occurrence being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully notify the Trustee and the Vendor with respect thereto. On the next succeeding interim or semiannual rental payment date (each such date being hereinafter called a "Casualty Payment Date"), the Lessee shall pay to the Trustee a sum equal to the Casualty Value (as defined in § 7.5 hereof) of any such Unit as of such Casualty Payment Date, plus the interim or semiannual rental in respect of such Unit accrued as of such rental payment date; provided, however, that in the event of a Casualty Occurrence during the period any Unit is being returned pursuant to §§ 14 and 17 hereof, the Lessee shall make such payment to the Trustee on a date 30 days after such Casualty Occurrence. 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 Trustee shall be entitled to recover possession of such Unit.

In addition to the occurrences constituting a Casualty Occurrence under the preceding paragraph, if any Unit shall have been taken or requisitioned by the United States Government or any other governmental entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Trustee with respect thereto and pay the Trustee, as the Casualty Value therefor, an amount equal to 20% of the Purchase Price of such Unit. Following such payment, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Value and any balance of such payments shall be the property of the Trustee. In the event such Unit shall be returned by the governmental entity prior to the time the Lessee shall have been reimbursed by such application of condemnation payments in an amount equal to such Casualty Value, then the Lessee shall dispose of such Unit as agent for the Trustee, and shall retain the net proceeds of such disposition to the extent that the aggregate of the amounts so retained and the condemnation payments theretofore received by the Lessee shall equal such

Casualty Value, and any balance of such proceeds shall be promptly paid to the Trustee. In the event such Unit shall be returned by the governmental entity following the time the Lessee shall have been reimbursed by such application of condemnation payments in an amount equal to such Casualty Value, such Unit shall be returned by the Lessee to the Trustee in the manner provided in § 17 hereof.

7.2. Requisition by United States Government. In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the last paragraph of § 7.1 hereof), 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. All payments received by the Trustee or the Lessee from the United States Government for the use of such Unit during the term of this Lease 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.

7.3. Lessee Agent for Disposal. The Trustee hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof before and after expiration of the Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Trustee (i) the Lessee shall be entitled to the net proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Trustee and (ii) the Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the Builder pursuant to the patent indemnity provisions of the CSA an amount equal to any payment made by the Builder to the Trustee in respect thereof under the CSA.

7.4. Payments After Expiration of Lease. If the date upon which the making of the payment by the Lessee in § 7.1 hereof in respect of any Unit is required as aforesaid shall be after the term of this Lease or any renewal term thereof in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term.

7.5. Amount of Casualty Value for Schedule A Units. The Casualty Value of each Schedule A Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Purchase

Price of such Unit as is set forth in Annex B hereto opposite the rental payment date next succeeding the actual date of such Casualty Occurrence, or if there is no such rental payment date, the last rental payment date; but in no event shall such amount be less than the Casualty Value (as defined in paragraph 7.3 of the CSA) as of such rental payment date.

7.6. Amount of Casualty Value for Schedule B Units. The Casualty Value for each Schedule B Unit shall be determined in like manner as the computation of the rental for such Schedule B Unit as set forth in § 3.1(2)(b) hereof; but in no event shall any Casualty Value so determined be less than the corresponding Casualty Value as defined in paragraph 7.3 of the CSA.

7.7. No Release. 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.

7.8. Insurance To Be Maintained. (1) The Lessee will, at all times prior to the return of the Units to the Trustee at its own expense, cause to be carried and maintained (i) property insurance in respect of the Units at the time subject hereto; provided, however, that the Lessee may self-insure such Units to the extent it self-insures equipment similar to the Units and to the extent such self-insurance is consistent with prudent industry practice, and (ii) public liability insurance with respect to third party personal and property damage and the Lessee will continue to carry such insurance in such amounts and for such risks and with such insurance companies as is consistent with prudent industry practice but in any event at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units, in each case satisfactory to the Owners. The proceeds thereof shall be payable to the Vendor, the Trustee and the Lessee, as their interests may appear, so long as the indebtedness, if any, evidenced by the CSA shall not have been paid in full, and thereafter to the Trustee 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 cancellation or material change in coverage to the Owners and the Vendor and (ii) name the Trustee, each Owner and the Vendor as additional named insureds as their respective interests may appear and, in the event such policies shall contain breach of warranty provisions, such policies shall provide that in respect of the interests of the Trustee 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 Trustee in the case of the Trustee or the Vendor in the case of the Vendor) and shall insure the Trustee 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 Trustee in the case of the Trustee or the Vendor in the case of the Vendor). Prior to the first date of delivery of any Unit pursuant to the CSA, and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant to this § 7, the Lessee shall deliver to the Owners duplicate originals of all policies (or in the case of blanket policies, certificates thereof issued by the insurers thereunder) for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of a formal policy or certificate, as the case may be, is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the formal policy or certificate, as the case may be, upon receipt thereof.

(2) In the event that the Lessee shall fail to maintain insurance as herein provided, the Owners may at their option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Owners for the cost thereof together with interest, on the amount of the cost to the Owners of such insurance which the Lessee shall have failed to maintain, at the rate per annum specified in § 19 hereof.

7.9. Insurance Proceeds and Condemnation Payments. If the Trustee shall receive (directly or from the Vendor) any insurance proceeds or condemnation payments in respect of such Units suffering a Casualty Occurrence, the Trustee shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to any Unit theretofore paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Trustee; provided, however, that no Event of Default shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Units, to the Trustee. All insurance proceeds received by the Trustee (directly or from the Vendor) in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Trustee 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 1980, the Lessee will furnish to the Trustee and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the total number, description and identification numbers of all Units then leased hereunder and covered by the CSA, the total number, description and identification 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 repair (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Trustee or the Vendor may reasonably request, (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 § 5.1 hereof and by the CSA have been preserved or replaced and (c) further stating that the Lessee is in compliance under the Lease and has performed or has caused to be performed the required maintenance of the Units and that no event has occurred which with the lapse of time or notice or both would constitute an Event of Default. The Trustee, the Vendor and the Owners shall each have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Trustee, the Vendor or the Owners may request during the continuance of this Lease.

§ 9. DISCLAIMER OF WARRANTIES

THE TRUSTEE DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY 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 TRUSTEE DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR 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 Trustee and the Lessee, are to be borne by the Lessee; but the Trustee hereby irrevocably appoints 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 Trustee and/or the Lessee, as their

interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Trustee may have against the Builder under the provisions of Items 3 and 4 of Annex A of the CSA; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Trustee may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Trustee 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 Trustee that the Units described therein are in all respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Trustee or the Vendor based on any of the foregoing matters.

§ 10. LAWS AND RULES

10.1. Compliance. The Lessee agrees, for the benefit of the Trustee 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 United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, 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 Trustee or the Vendor, adversely affect the property or rights of the Trustee or the Vendor under this Lease or under the CSA.

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

§ 11. MAINTENANCE

11.1. Units in Good Operating Order. 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) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and in the same condition as other similar Equipment owned or leased by the Lessee.

11.2. Additions and Accessions. (1) Except as set forth in §§ 10.1 and 11.1 hereof, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units and do not adversely and materially affect the value of the Units. The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with the second paragraph hereof.

(2) Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of the Lessee's agreements contained in § 11.2(1) hereof, (ii) the cost of which is included in the Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit by the regulations of the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be

vested in the Trustee and the Vendor as their respective interests may appear in the Unit itself.

§ 12. INDEMNIFICATION

12.1. Indemnified Persons. The Lessee shall pay, and shall protect, indemnify and hold the Trustee (in both its individual and fiduciary capacities), the Vendor and any assignee thereof, and their respective successors, assigns, agents and servants (hereinafter called "Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising, or alleged to arise out of this Lease, the CSA or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof, (ii) any latent and other defects whether or not discoverable by the Trustee, the Vendor or the Lessee, (iii) any claim for patent, trademark or copyright infringement, (iv) any claims based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof, except to the extent any such violation arises from the gross negligence or willful misconduct of the Trustee; or (vii) any claim arising out of any of the Trustee's obligations under the Lease Assignment or the Vendor's retention of a security interest under the CSA or the Lease Assignment or the Participation Agreement, except to the extent such claim arises from the

gross negligence or willful misconduct of the Trustee. The Lessee shall be obligated under this § 12.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 12.1 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any indemnification payment under this § 12, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 12 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this § 12.1 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made. Nothing in this § 12.1 shall constitute a guarantee by the Lessee of the CSA Indebtedness of the Trustee

under the CSA or a guarantee of the residual value of any Unit.

(The Lessee has agreed under a separate Indemnity Agreement dated as of the date hereof, to indemnify each Owner in a manner similar to the above and in certain other respects.)

12.2. Indemnification of Builder. The Lessee agrees to indemnify, protect and hold harmless the Builder as a third party beneficiary hereof from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Builder because of the use in or about the construction or operation of any Unit of any article or material specified by the Lessee and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to the Builder of any claim known to the Lessee from which liability may be charged against the Builder hereunder.

12.3. Survival. The indemnities contained in this § 12 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 12 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

§ 13. DEFAULT

13.1. Events of Default; Remedies. If, during the continuance of this Lease or any extension or renewal thereof, 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 16 hereof, and such default shall continue for 10 days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or 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, in the Participation Agreement or the Indemnity Agreement (as defined in the Participation Agreement) and such default shall continue for 15 days after written notice from the Trustee or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

D. any representation or warranty made by the Lessee herein, in the Participation Agreement, the Indemnity Agreement or in any certificate or statement furnished to the Trustee or the Owners pursuant to or in connection with any such agreements proves untrue in any material respect as of the date of issuance or making thereof;

E. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as may hereafter be amended or under any other provision of Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been 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 by the trustee in such proceedings in accordance with the provisions of 11 U.S.C. § 1168, or any successor provision, as the same may hereinafter be amended;

F. 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 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), 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 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

G. an event of default set forth in Article 16 of the CSA shall have occurred arising out of any default by the Lessee in performing any of its obligations hereunder and such event of default shall not have been waived by the Vendor;

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

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Trustee may by its agents enter upon the premises of the Lessee or other premises, insofar as the Lessee may be lawfully authorized to so permit, where any of the Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, 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 Trustee 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 as damages for loss of the bargain and not as a penalty whichever of the following amounts that the Trustee, in its sole discretion shall specify, (i) a sum, with respect to each Unit, which represents (x) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit, such present value to be computed on the basis of a 4.0% per annum discount, compounded semiannually from the respective dates upon which rental would have been payable hereunder had this Lease not been terminated over the then present value of the rental which the Trustee reasonably estimates to be obtainable for each Unit during such period, such present value to be computed on the basis of a 4.0% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (y) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Trustee shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental or (ii) an amount equal to the excess, if any, of the Casualty Value as of the Casualty Payment Date on or next preceding the date of termination over the amount the Trustee reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Trustee shall have sold any unit, the Trustee, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Trustee and the Lessee shall pay to the Trustee on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any,

of the Casualty Value for such Unit as of the Casualty Payment Date on or next preceding the date of termination over the net proceeds of such sale.

13.2. Remedies Not Exclusive; Waiver. The remedies in this Lease provided in favor of the Trustee 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.

13.3. Failure To Exercise Rights Is Not Waiver. The failure of the Trustee 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.

§ 14. RETURN OF UNITS UPON DEFAULT

14.1. Return of Units. If this Lease shall terminate pursuant to § 13 hereof or Article 16 of the CSA, the Lessee shall forthwith deliver possession of the Units to the Trustee. 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, and shall have attached or affixed thereto any special device considered an accession thereto as provided in § 11 and shall have removed therefrom at the Lessee's expense any addition, modification or improvement which, as provided in § 11, is owned by the Lessee. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, 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 or which may have possession thereof to return the Unit or Units) and at the usual speed place such Units upon such storage tracks of the Lessee as the Trustee reasonably may designate;

(b) cause such Units to be stored on such tracks at the risk of the Lessee without charge for insurance, rent or storage until all such Units have been sold, leased or otherwise disposed of by the Trustee; 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 Trustee.

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 Trustee 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 Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Trustee and, if received by the Lessee, shall be promptly turned over to the Trustee. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall in addition, pay to the Trustee for each day thereafter an amount equal to the amount, if any, by which that percentage of the Purchase Price of such Unit for each such day obtained by dividing the basic lease rate as set forth in § 3.1 hereof for each semiannual payment for such Unit by 180 exceeds the actual earnings received by the Trustee on such Unit for each such day.

14.2. Trustee Appointed Agent of Lessee. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 14, the Lessee hereby irrevocably appoints the Trustee 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 Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in possession of such Unit at the time.

§ 15. ASSIGNMENT, POSSESSION AND USE

15.1. Assignment; Consent. This Lease shall be assignable in whole or in part by the Trustee upon prior written consent of the Lessee, which consent shall not be unreasonably withheld. The Lessee hereby consents to the assignment of this Lease pursuant to the Lease Assignment.

15.2. Lessee's Rights To Use the Units, To Permit Use Thereof by Others and To Sublease the Units. (1) So long as no Event of Default exists hereunder and no event of default exists under the CSA, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the CSA. Without the prior written consent of the Trustee and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as provided in paragraph (2) below of this § 15.2; and the Lessee shall not, without the prior written consent of the Trustee and the Vendor, 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 paragraph (2) of this § 15.2. 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 Trustee or the Vendor or resulting from claims against the Trustee or the Vendor not related to the ownership of the Units or any encumbrance on the leasehold estate of the Lessee which is subject and subordinate to the interests of the Trustee and the Vendor) upon or with respect to any Unit, including any accession thereto, or the interest of the Trustee, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises.

(2) So long as no Event of Default exists hereunder and no event of default exists under the CSA, the Lessee shall be entitled to the possession and 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 rail-

road 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 shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements and to assign its rights to the Units or to sublease the Units, but only upon and subject to all the terms and conditions of this Lease and the CSA; provided, however, that the Lessee shall not assign, sublease or permit the assignment, sublease or use of any Unit predominantly outside the United States of America within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee assign or sublease to, or permit the sublease or use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may receive and retain compensation for the use of any of the Units from railroads or other entities so using such Units. Any sublease permitted by this paragraph may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Units included in such sublease and the use thereof; provided, however, that every such sublease shall be subject and subordinate to the rights and remedies of the Vendor under the CSA and the Trustee under this Lease in respect of the Units covered by such sublease.

15.3. Transfers by Lessee Through Merger, Acquisition or Consolidation. Nothing in this § 15 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 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) 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 successor will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease and shall have assumed all the obligations of the Lessee under this Lease, the Consent, the Participation Agreement and the Indemnity Agreement.

§ 16. RENEWAL OPTIONS

16.1. Renewal for Successive Periods. 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 Trustee not less than 180 days prior to the end of the original term, the first extended term or the second extended term of this Lease in respect of the Units still subject to this Lease, elect to extend such original or extended term of this Lease in respect of all but not less than all the Units then covered by this Lease for a period of two years commencing on the scheduled expiration of such original or extended term of this Lease, at a "Fair Market Rental" payable, in arrears, in semiannual payments on the month and day such rentals were payable for the Units in each year of the original term.

16.2. Determination of Fair Market Rental.

(1) Fair Market Rental shall be determined for each extended term of this Lease 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.

(2) If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Trustee and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine

the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

§ 17. RETURN OF UNITS UPON EXPIRATION OF TERM

As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit, and in any event not later than 90 days thereafter, the Lessee will, at its own cost and expense, at the request of the Trustee, deliver possession of such Unit to the Trustee upon such storage tracks of the Lessee as the Trustee may reasonably designate, or, in the absence of such designation, as the Lessee may select, and permit the Trustee to store such Unit on such tracks for a period not exceeding 180 days and transport the same upon disposition of the Units, at any time within such 180-day period, to any interchange point on the Lessee's lines, all as directed by the Trustee, 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 Trustee 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 Trustee or any prospective purchaser, the rights of inspec-

tion granted under this sentence. Each Unit returned to the Trustee pursuant to this § 17 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) meet the standards then in effect under the applicable rules of any governmental agency or other organization with jurisdiction and (iii) have attached or affixed thereto any special device considered an accession thereto as provided in § 11 hereof and have removed therefrom any such device not so considered an accession. During any such storage period the Lessee shall maintain the Units in such manner as the Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances. 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 Trustee 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.

§ 18. RECORDING

The Lessee, at its own expense, will cause this Lease, the CSA, the CSA Assignment and the Lease Assignment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303(a). The Lessee will undertake the filing, registering, deposit, and recording required of the Trustee under the CSA. The Lessee in addition 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 Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA, the CSA Assignment and the Lease Assignment; and the Lessee will promptly furnish to the Vendor and the Trustee 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 Trustee. This Lease, the CSA, the CSA Assignment and the Lease Assignment shall be filed with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 19. INTEREST ON OVERDUE RENTALS

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 interest at 10.5% 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.

§ 20. TRUSTEE'S RIGHT TO PERFORM FOR THE LESSEE

If the Lessee fails to perform or comply with any of its agreements contained herein, the Trustee may upon notice to the Lessee perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Trustee (including reasonable counsel fees, if any) incurred in connection with such performance or compliance, together with interest on such amount at 10.5% per annum, shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Trustee shall be deemed a waiver of the rights and remedies of the Trustee or any assignee of the Trustee against the Lessee hereunder.

§ 21. 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 Trustee, at P. O. Box 2258, Baltimore, Maryland 21203, with copies to the Owners at their respective addresses set forth in Appendix II to the Participation Agreement; and

(b) if to the Lessee, at 3253 East Trafficway, Springfield, Missouri 65802, Attention of Vice President-Finance,

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

§ 22. SEVERABILITY

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.

§ 23. EFFECT AND MODIFICATION OF LEASE

Except for the Participation Agreement and the Indemnity Agreement, this Lease exclusively and completely states the rights of the Trustee 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 Trustee and the Lessee.

§ 24. THIRD PARTY BENEFICIARIES

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Owners, the Vendor, the Builder and the permitted successors and assigns of a party) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

§ 25. 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 Lease Assignment 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.

§ 26. LAW GOVERNING

The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Missouri; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 27. IMMUNITIES; NO RECOURSE

(1) No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto or any Owner, 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 Lease.

(2) Anything herein to the contrary notwithstanding, each and all of the representations, undertakings and agreements herein made on the part of the financial institution acting as Trustee are each and every one of them made not as personal representations and agreements by said financial institution, including its successors and assigns, or for the purpose of binding said financial institution 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 the Trustee solely in the exercise of the powers conferred upon the Trustee as trustee under the Trust Agreement; and no personal liability is assumed by or shall at any time be asserted or enforceable against the Trustee or the Owners on account of any representation or agreement herein of the Trustee, 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.

§ 28. AGREEMENTS FOR BENEFIT OF OWNERS
AND TRUSTEE'S ASSIGNS

All rights of the Trustee hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 12, 13, 14 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of each Owner and any of its assigns under the Trust Agreement and the Trustee's assigns (including the Vendor).

§ 29. TERM TRUSTEE

Whenever the term Trustee is used in this Lease it shall apply and refer to the Trustee and any assignee of the Trustee (including, so long as any indebtedness under the CSA or interest thereon shall remain unpaid or any other obligation thereunder be continuing, the Vendor).

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

ST. LOUIS-SAN FRANCISCO RAILWAY
COMPANY,

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

MERCANTILE-SAFE DEPOSIT AND TRUST
COMPANY, not in its individual
capacity, but solely as Trustee,

by

Assistant Vice President

[Seal]

Attest:

Corporate Trust Officer

APPENDIX A TO LEASE

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Estimated Unit Base Price	Estimated Total Base Price	Estimated Time and Place of Delivery
GP 40-2 3,000 h.p. Diesel Electric Locomotive	8091	LaGrange, Illinois	25	750-774	\$582,000	\$14,550,000	April-June 1979 at McCook, Illinois
SD 38-2 2,000 h.p. Diesel Electric Locomotive	8086	LaGrange, Illinois	4	296-299	637,500	2,550,000	June 1979 at McCook, Illinois
			29			\$17,100,000	

APPENDIX B TO LEASE

Casualty Values

<u>Casualty Payment Dates</u>	<u>Percentage of Purchase Price*</u>
Interim Period to	
August 1, 1979	106.36
February 1, 1980	106.73
August 1, 1980	106.64
February 1, 1981	106.33
August 1, 1981	105.81
February 1, 1982	105.10
August 1, 1982	105.00
February 1, 1983	96.66
August 1, 1983	95.37
February 1, 1984	93.91
August 1, 1984	93.25
February 1, 1985	84.03
August 1, 1985	82.07
February 1, 1986	79.94
August 1, 1986	79.00
February 1, 1987	68.82
August 1, 1987	66.28
February 1, 1988	63.61
August 1, 1988	60.83
February 1, 1989	57.93
August 1, 1989	54.93
February 1, 1990	51.83
August 1, 1990	48.65
February 1, 1991	45.36
August 1, 1991	41.98
February 1, 1992	38.52
August 1, 1992	34.96
February 1, 1993	31.32
August 1, 1993	27.60
February 1, 1994	23.82
August 1, 1994, and thereafter	20.00

* As defined in the CSA.

ANNEX D
to
Conditional Sale Agreement

ASSIGNMENT OF LEASE AND AGREEMENT dated as of January 1, 1979 (this "Assignment"), by and between MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, not individually but solely in its capacity as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof with the parties named therein (the "Trust Agreement"), and THE BOATMEN'S NATIONAL BANK OF ST. LOUIS, as Agent (the "Vendor") under a Participation Agreement dated as of the date hereof.

WHEREAS the Trustee is entering into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with GENERAL MOTORS CORPORATION (Electro-Motive Division) (the "Builder") providing for the sale to the Trustee of such units of railroad equipment (the "Units") described in Annex B thereto as are delivered to and accepted by the Trustee thereunder;

WHEREAS the Trustee and ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the leasing of the Units by the Trustee to the Lessee;

WHEREAS, in order to provide security for the obligations of the Trustee under the CSA and as an inducement to the Vendor to invest in the CSA Indebtedness (as defined in paragraph 4.3(b) of the CSA), the Trustee agrees 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 herein-after mentioned to be kept and performed, the parties hereto agree as follows:

1. The Trustee hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Trustee under the CSA, all the Trustee's right, title and interest, powers, privileges and other benefits under the Lease (other than

the Trustee's rights under §§ 6, 12 and 20 of the Lease), including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Trustee 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 Trustee is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Trustee hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Trustee or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Trustee 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 Trustee pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Trustee under the CSA, and, so long as no event of default or event which with the lapse of time and/or demand provided for in the CSA could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be paid to the Trustee on the same date such Payment is applied to satisfy such obligations of the Trustee, by bank wire to the Trustee at such address as may be specified to the Vendor in writing, and such balance shall be retained by the Trustee. If the Vendor shall not receive any rental payment under § 3.1 of the Lease when due, the Vendor shall notify the Trustee at the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Trustee shall not affect the obligations of the Trustee hereunder or under the CSA.

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 Trustee under the Lease, it being agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Trustee to the Lessee shall be and remain enforceable by the

Lessee, its successors and assigns, against, and only against, the Trustee or persons other than the Vendor.

3. The Trustee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by the Trustee; without the written consent of the Vendor, the Trustee 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 Trustee agrees that any amendment, modification or termination thereof without such consent shall be void. The written consent of the Vendor shall not be required for a supplement to the Lease of the type described in § 2.2 of the Lease.

4. The Trustee does hereby constitute the Vendor the Trustee's true and lawful attorney, irrevocably, with full power (in the name of the Trustee, 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 Trustee 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 Trustee under the CSA, 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 Trustee. Promptly following such full discharge and satisfaction, the Vendor agrees that it will advise the Lessee in writing thereof and instruct the Lessee that no further payments under the Lease are to be made to the Vendor.

6. The Trustee 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.

7. 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. 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.

8. This Assignment shall be governed by the laws of the State of Maryland, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

9. The Trustee 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.

10. The Vendor hereby agrees with the Trustee that the Vendor will not, so long as no event of default under the CSA 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 which are assigned and transferred by the Trustee 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 CSA, the Trustee may, so long as no event of default under the CSA has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges, and remedies arising out of § 13.1(a) of the Lease; provided, however, that the Trustee shall not, without the prior written consent of the Vendor, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of § 13.1(b) of the Lease.

11. Anything herein to the contrary notwithstanding, that each and all of the representations and agreements herein made on the part of the financial institution acting as Trustee are each and every one of them made not as personal representations and agreements by said financial institution, or for the purpose of binding the said financial institution 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 financial institution solely in the exercise of the powers conferred upon the said financial institution as trustee under the Trust Agreement; and no personal liability is assumed by or shall at any time be asserted or enforceable against the said financial institution or the Owners on account of any representation or agreement herein of the Trustee or the Owners, 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 the Vendor, making claim hereunder, may look to said Trust Estate for the 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.

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Trustee as aforesaid,

by

[Seal]

Assistant Vice President

Attest:

Corporate Trust Officer

THE BOATMEN'S NATIONAL BANK OF ST. LOUIS, as Agent,

by

[Corporate Seal]

Vice President

Attest:

Assistant Trust Officer

STATE OF MARYLAND,)
) ss.:
 CITY OF BALTIMORE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

STATE OF MISSOURI,)
) ss.:
 CITY OF ST. LOUIS,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of THE BOATMEN'S NATIONAL BANK OF ST. LOUIS, that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association 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 banking association.

Notary Public

[Notarial Seal]

My Commission expires

CONSENT AND AGREEMENT

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (which moneys are hereinafter called the "Payments") due and to become due under the Lease directly to THE BOATMEN'S NATIONAL BANK OF ST. LOUIS, as Agent (the "Vendor"), the assignee named in the Lease Assignment, at 100 North Broadway, St. Louis, Missouri 63102, attention of Corporate Trust Department (or at such other address as may be furnished in writing to the Lessee by the Vendor);

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

(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

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

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

ST. LOUIS-SAN FRANCISCO RAILWAY
COMPANY,

[Corporate Seal]

by

Vice President

Attest:

Assistant Secretary

The foregoing Consent and Agreement is hereby
accepted as of the first day of January 1979.

THE BOATMEN'S NATIONAL BANK OF
ST. LOUIS, as Agent,

by

Vice President