

**PG&E** Portland General Electric Company

10163A  
RECORDATION NO. .... Filed 1425

February 28, 1979

FEB 28 1979 -4 35 PM

Hon. H. G. Homme, Jr.  
Secretary  
Interstate Commerce Commission  
12th Street and Constitution Avenue, N.W.  
Washington, D.C. 20423

10163  
RECORDATION NO. .... Filed 1425

FEB 28 1979 -4 35 PM

INTERSTATE COMMERCE COMMISSION

Dear Sir:

Enclosed for recording with the Interstate Commerce Commission pursuant to Part 1116 of Title 49 of the Code of Federal Regulations are (i) one original, two certified true copies and 5 photocopies of a Lease Agreement dated as of October 1, 1978 between Portland General Electric Company, 121 S. W. Salmon Street, Portland, Oregon 97204 and Wells Fargo Transport Leasing Corporation, 425 California Street, San Francisco, California 94104 covering the following railroad equipment:

230-105 ton coal, gondola, open top, high-side rotary dump rail cars. AAR Car Type Code E100. AAR Mechanical Design GTS.

Reporting Marks and ACI No. "PGEX"--1 455.

Four have rotary couplers on both A and B ends (marked "PGEX 1" through "PGEX 4"), 226 have rotary couplers on A end only (marked "PGEX 101" through "PGEX 326").

and (ii) one original, two certified copies and 5 photocopies of a Security Agreement--Trust Deed dated as of October 1, 1978 between Wells Fargo Transport Leasing Corporation, 425 California Street, San Francisco, California 94104, and The Connecticut Bank and Trust Company, One Constitution Plaza, Hartford, Connecticut 06115, covering as collateral the railroad equipment described above and rental obligations arising under the Lease Agreement enclosed herewith.

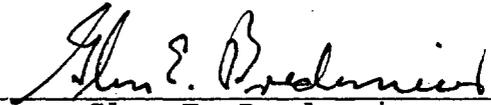
Also enclosed is our check in the amount of \$100.00, payable to the Interstate Commerce Commission, being the prescribed fee for the recording of the foregoing documents.

*Handwritten signature: C. Antypano*

Interstate Commerce Commission  
Page Two

Please return the originals and the copies not required by the Interstate Commerce Commission, properly stamped, to Charles Landgraf, Esq. of LeBoeuf, Lamb, Leiby & MacRae, who will be delivering this letter on our behalf.

Very truly yours,



---

Glen E. Bredemeier  
Vice President

Enclosures

Corporate Form of Acknowledgment

STATE OF OREGON        )  
                          )        ss.:  
COUNTY OF MULTNOMAH)

On this 28th day of February, 1979, before me personally appeared Glen E. Bredemeier, to me personally known, who being by me duly sworn, says that he is a Vice President of Portland General Electric Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



---

Dallas A. Marckx  
Assistant Secretary

**Interstate Commerce Commission**  
Washington, D.C. 20423

2/28/79

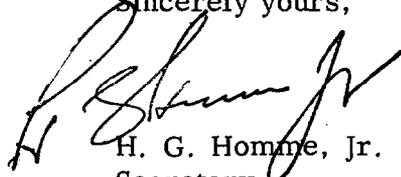
**OFFICE OF THE SECRETARY**

Glen E. Bredemeier  
Portland General electric Company  
121 S.W. Salmon Street  
Portland, Oregon 97204

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 2/28/79 at 4:35pm, and assigned recordation number(s). 10163 & 10163-A

Sincerely yours,



H. G. Homme, Jr.  
Secretary

Enclosure(s)

SE-30  
(3/79)

RECORDATION NO. 10163 Filed 1425  
FEB 28 1979 -4 35 PM  
INTERSTATE COMMERCE COMMISSION

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EQUIPMENT LEASE

Dated as of October 1, 1978

Between

WELLS FARGO TRANSPORT LEASING CORPORATION

LESSOR

And

PORTLAND GENERAL ELECTRIC COMPANY

LESSEE

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(230 Gondola Cars)

*C. Campbell*  
*H. Charles Handberg*  
*for S. Green*

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Attachments to Equipment Lease:

- Schedule A - Description of Items of Equipment
- Schedule B - Certificate of Acceptance
- Schedule C - Schedule of Casualty Value
- Schedule D - Schedule of Termination Value

## EQUIPMENT LEASE

THIS EQUIPMENT LEASE is dated as of October 1, 1978 between WELLS FARGO TRANSPORT LEASING CORPORATION, a California corporation (the "Lessor"), and PORTLAND GENERAL ELECTRIC COMPANY, an Oregon corporation (the "Lessee").

### R E C I T A L S:

A. Pursuant to a Purchase Order Assignment dated as of October 1, 1978, the Lessee has assigned to the Lessor its right to purchase the Equipment referred to below.

B. The Lessee and the Lessor have entered into a Participation Agreement dated as of October 1, 1978 (the "Participation Agreement") with The Connecticut Bank and Trust Company, as security trustee (the "Security Trustee") and the institutional investors named in Schedule 1 thereto (the "Note Purchasers") providing commitments of the Note Purchasers which, together with funds to be provided by the Lessor will permit the Lessor to obtain the funds necessary to purchase the equipment (collectively the "Equipment" and individually an "Item of Equipment") described in Schedule A hereto and made a part hereof. The Lessor will commit to advance an amount equal to 39.5141% of the Purchase Price of each Item of Equipment (up to \$7,900,000) and the Note Purchasers will commit to purchase the Secured Notes (the "Notes") of the Lessor in an amount equal to 60.4859% of each Item of Equipment. The Participation Agreement provides that the Notes will be secured by an assignment of the Lessor's right, title and interest in and to this Lease and in and to the Equipment pursuant to a Security Agreement-Trust Deed dated as of October 1, 1978 (the "Security Agreement") from the Lessor to the Security Trustee.

### SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

1.1. Intent to Lease and Hire. Upon delivery of each Item of Equipment by the manufacturer thereof identified in Schedule A hereto (hereinafter referred to as the "Manufacturer") and subject to the terms and conditions of the Participation Agreement, the Lessor shall lease and let such Item of Equipment to the Lessee, and the Lessee shall hire the same from the Lessor, for the rental and on and subject to the terms and conditions herein set forth.

1.2. Inspection and Acceptance. The Lessor will cause each Item of Equipment to be tendered to the Lessee at the place of delivery set forth in Schedule A. Upon such tender, the Lessee will cause an inspector designated and authorized by the Lessee to inspect the same, and, if such Item of Equipment is found to be in

good order, to accept delivery of such Item of Equipment and to execute and deliver to the Lessor and the Manufacturer thereof a Certificate of Acceptance (the "Certificate of Acceptance") in the form attached hereto as Schedule B with respect to such Item of Equipment; provided, however, that the Lessee shall not accept and the Lessor shall have no obligation to lease any Item of Equipment delivered after the Outside Delivery Date set forth in Schedule A.

1.3. Certificate of Acceptance. The Lessee's execution and delivery of a Certificate of Acceptance with respect to each Item of Equipment pursuant to Section 1.2 hereof shall conclusively establish that, as between the Lessor and the Lessee, but without limiting or otherwise affecting the Lessee's or the Lessor's rights, if any, against the Manufacturer thereof, such Item of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any defect with respect to design, manufacture, condition or in any other respect, and that such Item of Equipment is in good order and condition and appears to conform to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and to all standards recommended by the Association of American Railroads applicable to new railroad equipment of the character of the Equipment as of the date of this Lease. By execution and delivery of such Certificate of Acceptance, the Lessee represents that it has no knowledge of any such defect.

## SECTION 2. RENTALS AND PAYMENT DATES.

2.1. Rent for Equipment. The Lessee agrees to pay the Lessor the following rent for each Item of Equipment:

(a) Interim Rental. For each Item of Equipment, an amount per day (the "Interim Rental") equal to 0.025278% of the Purchase Price thereof for the period, if any, from and including the Closing Date (as defined in the Participation Agreement) for such Item of Equipment to, but not including, May 1, 1979 (the "Term Lease Commencement Date"); and

(b) Fixed Rental. For each Item of Equipment, thirty-six consecutive semiannual installments of fixed rental (the "Fixed Rental"), payable in arrears, each in an amount equal to 3.87932% of the Purchase Price thereof.

2.2. Rent Payment Dates. The installment of Interim Rental for each Item of Equipment shall be due and payable on the Term Lease Commencement Date. The first installment of Fixed Rental for each Item of Equipment shall be due and payable six

months following the Term Lease Commencement Date and the balance of said installments shall be payable at six-month intervals thereafter with the final such installment payable eighteen years following the Term Lease Commencement Date. If any of the rent payment dates is not a business day, the rent payment otherwise payable on such date shall be payable on the next succeeding business day. For purposes of this Lease, the term "business day" means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of Connecticut, Oregon or California are authorized or required to close.

2.3. Adjustment of Rentals. In the event that (i) the sum of all expenses paid by the Lessor pursuant to Section 2.7 of the Participation Agreement exceeds an amount equal to 1/2% of the Purchase Price of the Equipment, or (ii) an amendment to the Internal Revenue Code of 1954, as amended (the "Code"), shall be enacted which is to take effect on or prior to December 31, 1979 and which alters or eliminates any of the Tax Benefits (as defined in Section 7(a) of the Participation Agreement) or the applicable rate of taxation of income of the Lessor under the Code, then the Lessee and the Lessor agree that the Fixed Rentals shall be adjusted to such amount as shall, in the reasonable opinion of the Lessor, cause the Lessor's net after-tax rate of return on investment and annual net cash flows (computed on the same assumptions, including tax rates, as were utilized by the Lessor in originally evaluating this transaction) to equal the net after-tax rate of return on investment and annual net cash flows that would have been realized by the Lessor if the conditions specified in clause (i) or (ii) had not occurred, and the Casualty Values and Termination Values shall similarly be adjusted in amounts reasonably determined by the Lessor.

Anything in this Section 2.3 to the contrary notwithstanding, the amounts payable as installments of Fixed Rental, Casualty Values and Termination Values hereunder with respect to any Item of Equipment (i) shall in no event be reduced below amounts necessary to discharge that portion of the principal of and/or interest on the Notes due and payable on each rent payment date under this Lease, and (ii) shall comply with the guidelines for Internal Revenue Service rulings on leveraged leases set forth in Revenue Procedures 75-21 and 75-28.

2.4. Place and Manner of Rent Payment. The payments to be made by the Lessee under this Lease shall be made as follows:

(a) The installment of Interim Rental shall be paid to the Lessor by wire transfer to the principal office of the Lessor at the address thereof provided for payments in Section 20.1 hereof; provided that in the event the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of

such installment shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by wire transfer to the place designated in such notice or as otherwise designated from time to time in writing by such assignee;

(b) The portion of any installment of Fixed Rental resulting from an increase in the amount thereof pursuant to Section 2.3 hereof shall be paid in full to the Lessor by wire transfer to the principal office of the Lessor at the address provided for payments in Section 20.1 hereof;

(c) Each installment of Fixed Rental shall be paid to the Lessor by wire transfer to the principal office of the Lessor at the address thereof provided for payments in Section 20.1 hereof; provided that in the event the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of such installment shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by wire transfer to the place designated in such notice or as otherwise designated from time to time in writing by such assignee.

(d) The entire amount of any payment of Casualty Value pursuant to Section 11 hereof shall be paid to the Lessor by wire transfer (with a concurrent written notice) identifying the same as a payment of Casualty Value relating to Portland General Electric Company Equipment Lease dated as of October 1, 1978 and forwarded to the Lessor in the manner provided for notices in Section 20.1 hereof; provided that in the event the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of such Casualty Value shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment in the manner designated in such notice or as otherwise designated from time to time in writing by such Assignee;

(e) The amount of any payment owing to the Lessor pursuant to Sections 6, 10.2, 11.1 (with respect to public liability insurance) and 20.2 hereof shall be made directly to the party to receive the same without regard to the assignment of this Lease pursuant to Section 16 hereof;

(f) The amount of any interest due in respect of the late payment of any rentals or other amounts pursuant to Section 19 hereof shall be paid to the party and in the manner herein provided to receive said rental or other amount; and

(g) All payments other than those above specified shall be made by the Lessee directly to the party to

receive the same unless any such payment has previously been made by the Lessor or its assignee, in which case the Lessee shall reimburse the Lessor or its assignee, as the case may be, directly for such payment.

The Lessee agrees that it will make payments due hereunder by wire transfer where specified above at the opening of business at the office of the transferring bank on the due date of such payment of Federal or otherwise immediately available funds to the party to whom such payment is to be made, and where not so specified, such payment shall be made by check of the Lessee drawn on a bank located in the continental United States and mailed to the party to receive the same at the address herein provided or at such other address as the Lessee shall have been previously advised in writing.

2.5. Net Lease. This Lease is a net lease and the Lessee's obligation to pay all Interim Rental and Fixed Rental and other amounts payable hereunder shall be absolute and unconditional under any and all circumstances and, without limiting the generality of the foregoing, the Lessee shall not be entitled to any abatement of rent or reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against any assignee of the Lessor pursuant to Section 16 hereof; nor except as otherwise expressly provided herein shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, 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 unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment has been returned to the possession of the Lessor (for all purposes of this Lease any Item of Equipment shall not be deemed to have been returned to the Lessor's possession until all of the Lessee's obligations with respect to the return, transportation and storage thereof have been performed). 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 Items of Equipment except in accordance with the

express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor or any assignee pursuant to Section 16 hereof for any reason whatsoever.

SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of the delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Sections 11, 14 and 18 hereof, shall terminate eighteen years following the Term Lease Commencement Date provided for in Section 2.1(a) hereof.

SECTION 4. OWNERSHIP AND MARKING OF EQUIPMENT.

4.1. Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and possession and use thereof by the Lessee.

4.2. Duty to Number and Mark Equipment. The Lessee will cause each Item of Equipment to be kept numbered with its road number as set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height as follows:

"Leased from a Bank or Trust Company,  
as Owner-Trustee and Subject to a  
Security Interest recorded with the I.C.C."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16 hereof. The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. The Lessee will not change the road number of any Item of Equipment except with the consent of the Lessor and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been delivered to the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

4.3. Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation which would constitute a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of the right of the Lessee to use the Equipment under this Lease.

SECTION 5. DISCLAIMER OF WARRANTIES.

THE LESSOR LEASES THE EQUIPMENT, AS-IS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, BY THE LESSOR, AND THE LESSOR AND ANY ASSIGNEE THEREOF PURSUANT TO SECTION 16 HEREOF EXPRESSLY DISCLAIM ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, (D) THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, OR (E) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer and will cooperate with the Lessee in pursuing the same, provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Item of Equipment 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 Item of Equipment 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 Item of Equipment. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that all Items of Equipment described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

SECTION 6. LESSEE'S INDEMNITY.

6.1. Scope of Indemnity. The Lessee shall defend, indemnify and save harmless the Lessor, the Note Purchasers and the Security Trustee and their respective successors and assigns from and against:

(a) any and all loss or damage to the Equipment, usual wear and tear excepted; and

(b) any claim, cause of action, damages, liability, cost or expense (including, without limitation, reasonable counsel fees and costs in connection therewith) which may be incurred in any manner by or for the account of any of them (i) relating to any Item of Equipment or any part thereof, including, without limitation, the construction, purchase, delivery, acceptance, rejection, ownership, sale, leasing, return or storage of any Item of Equipment or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects are latent or discoverable by the Lessee or any indemnified party), (ii) by reason or as the result of any act or omission (whether negligent or otherwise) of the Lessee for itself or as agent or attorney-in-fact for the Lessor hereunder, (iii) as a result of claims for patent, trademark or copyright infringements, or (iv) as a result of claims for negligence or strict liability in tort.

All amounts for which the Lessee is obligated pursuant to the foregoing sentence are hereinafter referred to as "Expenses." The foregoing indemnity shall not apply to (i) Expenses to be borne pursuant to the express provisions hereof, of the Participation Agreement or of the Security Agreement by the party otherwise to be indemnified hereunder, (ii) Expenses arising from acts or events which occur after possession of the Equipment has been surrendered to Lessor or the Security Trustee, or after the Equipment has been sold by Lessor to Lessee at the expiration of the Lease Term, (iii) Expenses described in Section 10 (except to the extent indemnification is provided for in that Section), (iv) Expenses resulting from the willful misconduct or gross negligence of the party otherwise to be indemnified hereunder, (v) Expenses resulting from the breach of any warranty or duty under this Lease, the Participation Agreement or the Security Agreement by the party otherwise to be indemnified hereunder and (vi) any Expenses claimed by or on behalf of any broker, finder or agent by reason of any arrangement or understanding with any Note Purchaser or the Lessor. If either the Lessor or the Lessee has knowledge of any claim or liability hereby indemnified against, it shall give prompt written notice thereof to the other, but the omission by the Lessor or any other party so to notify the Lessee shall not relieve the Lessee from any liability which it may have to any indemnified

party hereunder. With respect to any amount which the Lessee is requested to pay by reason of this Section 6.1, the Lessor, the Security Trustee or Note Purchaser, as the case may be, shall, if requested by the Lessee and prior to any payment, submit such additional information to the Lessee as the Lessee may reasonably require properly to substantiate the requested payment. In case any such action shall be brought against any indemnified party, and it shall notify the Lessee of the commencement thereof, the Lessee shall be entitled to participate in, and, to the extent that it shall wish, to assume the defense thereof, with counsel satisfactory to such indemnified party, and after notice from the Lessee to such indemnified party of its election so to assume the defense thereof, the Lessee shall not be liable to such indemnified party hereunder for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation.

The indemnities and assumptions of liabilities set forth in this Section 6.1 do not guarantee a residual value in the Equipment nor do they guarantee the payment of the Notes or any interest accrued thereon.

6.2. Continuation of Indemnities and Assumptions. The indemnities and assumptions of liability in this Section 6 contained shall continue in full force and effect notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise; provided, however, that such indemnities and assumptions of liability shall not apply in respect of any matters referred to in subsection (a) or clause (i), (ii) or (iv) of subsection (b) of Section 6.1 hereof, arising from acts or events occurring after the termination of this Lease, except for any such matters occurring after the termination arising in connection with the Lessee's assembling, delivering, storing or transporting of the Equipment as provided in Section 13 or 15, as the case may be.

## SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including, without limitation, the rules of the United States Department of Transportation, the Interstate Commerce Commission and the current Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads as the same may be in effect from time to time [the "Interchange Rules"]) with respect to the use and maintenance of each Item of Equipment subject to this Lease. In case any equipment or appliance is required to be altered, added, replaced or modified on any Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, additions, replacements and/or modifications at its own expense and title thereto shall be immediately vested in the Lessor.

The Lessee agrees that, within 30 days after the close of any calendar quarter in which the Lessee has made Alterations, the Lessee will give written notice thereof to the Lessor describing, in reasonable detail, the Alterations and specifying the cost thereof with respect to each Item of Equipment and the date or dates when made.

SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange in accordance with the Interchange Rules. Except as required by the provisions of Section 7 hereof, the Lessee shall not modify any Item of Equipment in any manner which would adversely affect its originally intended use or commercial value without the prior written authority and approval of the Lessor and any assignee pursuant to Section 16 hereof which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to Section 7 hereof or pursuant to its obligation to maintain and keep the Equipment in good order, condition and repair under this Section 8 shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor without cost or expense to the Lessor. The Lessee shall make no other additions or improvements to any Item of Equipment unless the same are readily removable without causing material damage to such Item of Equipment. Title to any such readily removable additions or improvements shall remain with the Lessee. If the Lessee shall at its cost cause such readily removable additions or improvements to be made to any Item of Equipment, the Lessee agrees that it will, prior to the return of such Item of Equipment to the Lessor hereunder, remove the same at its own expense without causing material damage to such Item of Equipment.

SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee shall pay or satisfy and discharge any and all claims against, through or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon any Item of Equipment, and any liens or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not endanger the title and interest of the Lessor or the security interest or other rights of any assignee under Section 16 hereof

in and to the Equipment, provided that nothing herein shall require the Lessee to discharge inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like liens arising in the ordinary course of business which are not delinquent, or are bonded, or the enforcement of which is suspended but only for the duration of such suspension. The Lessee's obligations under this Section 9 shall survive the termination of this Lease in respect of any such liens arising by virtue of acts or events occurring during the term hereof and any period of storage provided for herein.

SECTION 10. FILING; PAYMENT OF STATE AND LOCAL TAXES.

10.1. Filing. Prior to delivery and acceptance of the first item of Equipment, the Lessee will, at its sole expense, cause this Lease and the Security Agreement to be duly filed, registered or recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and in such other places within or without the United States as the Lessor or the Security Trustee may reasonably request and will furnish the Lessor and the Security Trustee proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, reregister or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Security Trustee, for the purpose of protecting the Lessor's title to the Equipment, or the Lessor's or the Security Trustee's security interest under the Security Agreement to the reasonable satisfaction of the Lessor's or the Security Trustee's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor and the Security Trustee proof of such filings and an opinion satisfactory to the Lessor and the Security Trustee of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, refiling, recording and rerecording or depositing and repositing of any such instruments or incident to the taking of such action.

10.2. Payment of State and Local Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor, the Note Purchasers, the Security Trustee or any assignee thereof pursuant to Section 16 hereof (the "Indemnitees") for collection or other charges and will be free of expense to the Indemnitees with respect to the amount of any local, state, Federal or foreign taxes (other than (1) any Federal income tax including minimum tax for tax preferences [and, to the extent that any respective Indemnatee receives the benefit of an equivalent credit therefor against its United States Federal income tax liability, any foreign income tax of such Indemnatee] or other taxes, fees or charges imposed by the United States, on or based on or measured in whole or in part by the net income of any Indemnatee payable by any respective Indemnatee in consequence of the receipt of payments

provided herein; (ii) Federal income or other taxes, fees, or other charges on or based on or measured by revenue, receipts or income of any Indemnitee imposed in whole or in part in lieu of or as a substitute or alternate for any tax described in (i) above; (iii) the aggregate of all state and local taxes imposed on any Indemnitee which are franchise taxes or taxes on engaging in business activities, employing capital, doing business or the privilege of doing business (whether or not imposed on or based on or measured by net income) or revenue, receipts or income taxes, or a tax imposed in whole or in part in lieu of or as a substitute or alternate for a tax on or based on or measured by revenue, receipts, or income, but only up to the amount of any such taxes which would be payable to the state and city in which such Indemnitee has its principal place of business; and (iv) any capital levy, estate, succession or inheritance taxes, except any such tax as set forth in clauses (i), (ii), (iii) and (iv) which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments or license fees and any charges, fines or penalties in connection therewith (hereinafter called "Impositions") hereafter levied or imposed upon or in connection with or measured by this Lease or any sale (other than a voluntary sale or other voluntary disposition when no Event of Default has occurred and is continuing and this Lease has not been terminated pursuant to Section 11 hereof), rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Item of Equipment or for the use or operation thereof or upon any Indemnitee solely by reason of its interest with respect thereto. If any Impositions shall have been charged or levied against any Indemnitee directly and paid by such Indemnitee, the Lessee shall reimburse such Indemnitee on presentation of invoice therefor. Prior to making such payment, such Indemnitee shall promptly notify the Lessee of the Impositions charged or levied, and the Lessee shall have the opportunity to contest in good faith and by appropriate legal proceedings such Impositions, at its sole expense.

In the event any reports with respect to Impositions are required to be made on the basis of individual Items of Equipment, the Lessee will either prepare and file such reports in such manner as to show as required the interests of each Indemnitee in such Items of Equipment or, if it shall not be permitted to file the same, it will notify each Indemnitee of such reporting requirements, prepare such reports in such manner as shall be satisfactory to each Indemnitee and deliver the same to each Indemnitee within a reasonable period prior to the date the same is to be filed.

In the event that, during the continuance of this Lease, any Imposition accrues or becomes payable or is levied or assessed (or is attributable to the period of time during which this Lease is in existence) which the Lessee is or will be obligated to pay or reimburse, pursuant to this Section 10.2, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

SECTION 11. INSURANCE; PAYMENT FOR CASUALTY OCCURRENCE.

11.1. Insurance. The Lessee agrees that it will at all times during the term of this Lease and during any storage period hereunder and at its own cost and expense keep each Item of Equipment insured against loss by all risk and explosion and with extended coverage and against such other risks as are customarily insured against by railroad companies at not less than the Casualty Value of such Item of Equipment as of the next following date of payment thereof and will maintain general public liability insurance with respect to the Equipment against damage because of bodily injury, including death, or damage to property of others, such insurance to afford protection to the limit of not less than \$10,000,000 in the aggregate in any single occurrence. [Notwithstanding the foregoing, the Lessee may self-insure against damage to the Equipment from risks which are commonly self-insured against by similarly situated corporations which own, operate or use rail cars, provided that the Lessee shall maintain such insurance with respect to the Equipment at least against such risks and in such amounts as may be from time to time maintained by the Lessee with respect to other railroad equipment owned or leased by it.] Any public liability insurance may have deductible provisions to no greater extent than \$500,000 in the aggregate in any single occurrence except as otherwise agreed by the parties hereto. All such insurance shall cover the interest of the Lessor, the Lessee and the Security Trustee in the Equipment or, as the case may be, shall protect the Lessor, the Lessee and the Security Trustee in respect of risks arising out of the condition, maintenance, use, ownership and operation of the Equipment and shall provide that the losses, if any, in respect to the Equipment shall be payable to the Lessor; provided, however, that upon receipt by the Lessee of notice of the assignment of this Lease and the rents and other sums payable hereunder the Lessee shall cause the property insurance on the Equipment to provide that the losses, if any, shall be payable (except as provided below) to the Security Trustee under a standard mortgage loss payable clause satisfactory to the Lessor, the Lessee and the Security Trustee. Payments under all policies not required pursuant to this Section 11.1, but maintained at the sole discretion of the Lessee, shall be payable to and for the sole account of the Lessee. All policies of insurance maintained pursuant to this Section shall provide that 10 days' prior written notice of cancellation or material alteration shall be given to the Lessor and the Security Trustee and that such insurance as to the interest of the Lessor or the Security Trustee therein shall not be invalidated by any act or neglect of the Lessor or the Lessee or by any foreclosure or other remedial proceedings or notices thereof relating to the Equipment or any interest therein nor by any change in the title or ownership of the Equipment or any interest therein or with respect thereto or by the use or operation of the Equipment for purposes more hazardous than is permitted by such policy.

No such policy shall require co-insurance. The loss, if any, shall be adjusted only with the approval of the Lessee, the Lessor and the Security Trustee. All such policies shall provide that the loss, if any, thereunder shall be adjusted and paid as provided in this Lease. The Lessee shall further furnish the Lessor and the Security Trustee with certificates or other satisfactory evidence of maintenance of the insurance required hereunder and with respect to any renewal policy or policies shall promptly furnish certificates evidencing such renewal. All insurance provided for in this Section shall be effective with insurance companies which have been assigned policyholder ratings of "A" or "B" and a financial size category of Class 7 or larger, as published by A. M. Best Company in the most current edition of Best's Key Rating Guide; provided, however, that the Lessee reserves the right to place insurance covering public liability and property damage to the Equipment with a person or association or other organization of substantial financial resources which has been created by persons engaged in the utility business or in the business of owning, operating or using equipment similar to the Equipment for the purpose of providing insurance for such damage.

The proceeds of any property insurance received by the Lessor or the Security Trustee will be paid to the Lessee either (i) upon a written application signed by the Lessee for payment of, or to reimburse the Lessee for payment of, the costs of repairing, restoring or replacing the Item of Equipment which has been lost, damaged or destroyed (which application shall be accompanied by satisfactory evidence of such cost and the completion of such repair, restoration or replacement) or (ii) if this Lease is terminated with respect to such Item of Equipment because of the destruction as set forth in Section 11.5 hereof; provided that, if the Lessee is at the time of the application in default in the payment of any other liability of the Lessee to the Lessor hereunder, such proceeds may be applied against such liability.

11.2. Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged during the term of this Lease or thereafter while such Item of Equipment is in the possession of the Lessee pursuant to Section 13 or 15 hereof, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease for a stated period which exceeds the then remaining term of this Lease, including any requisition of title (any such occurrence being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor and any assignee thereof pursuant to Section 16 hereof in regard thereto and shall pay the Casualty Value (as defined in Section 11.6 hereof) of such Item in accordance with the terms of Section 11.3 hereof.

11.3. Sum Payable for Casualty Loss. The Lessee, on the next succeeding rent payment date following its notice of a

Casualty Occurrence with respect to any Item or Items of Equipment, shall pay to the Lessor the Interim or Fixed Rental installment due on such payment date for such Item of Equipment plus any rentals or other sums due on or prior to such date then remaining unpaid plus a sum equal to the Casualty Value of such Item of Equipment as of the date of such payment. The Casualty Values as set forth in Schedule C to the Lease include amounts attributable to the Federal income tax indemnification which would be payable by the Lessee pursuant to Section 5 of the Participation Agreement with respect to a loss of the Investment Credit and the Depreciation Deduction as defined in Section 5 of the Participation Agreement. The Casualty Values assume that the Casualty Occurrence has occurred prior to the rental payment date on which the Casualty Value is paid but after the immediately preceding rental payment date. If the Casualty Occurrence is on a date prior to such immediately preceding rental payment date, and, as of such date, tax benefits are lost, recaptured or disallowed (e.g. investment tax credit would not have vested until the date the Casualty Value is paid), then Lessee shall pay to Lessor, on the date of payment of the Casualty Value, an additional amount which, after deduction of all taxes required to be paid by Lessor in respect of the receipt thereof under the laws of any Federal, state, local or foreign government or taxing authority (including any penalties and interest due to underpayment of estimated tax), will in the reasonable opinion of Lessor when added to the Casualty Value paid by the Lessee to the Lessor cause Lessor's net after-tax yield and net after-tax cash flow to equal the net after-tax yield and net after-tax cash flow that Lessor would have realized had the Casualty Value so paid been paid on the rental payment date immediately following the Casualty Occurrence.

11.4. Rent Termination. Upon (and not until) payment of all sums required to be paid pursuant to Section 11.3 hereof in respect of any Item or Items of Equipment, the obligation to pay rent for such Item or Items of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rent for all other Items of Equipment.

11.5. Disposition of Equipment. The Lessee shall as agent for the Lessor dispose of any Item or Items of Equipment having suffered a Casualty Occurrence as soon as it is able to do so for the fair market value thereof. Any such disposition shall be on an "as-is", "where-is" basis without representation or warranty express or implied. As to each separate Item of Equipment so disposed of, so long as no Event of Default has occurred and is continuing, the Lessee shall, upon payment of all sums required to be paid Lessor pursuant to Section 11.3 hereof, retain all amounts arising from such disposition plus any proceeds of insurance maintained with respect to the equipment by the Lessee (excluding the proceeds of any insurance maintained at the sole discretion of the Lessee, which proceeds shall be retained by the Lessee solely for its benefit) received by the Lessee by reason of such Casualty Occurrence up to the Casualty Value and shall remit the excess, if any, to the Lessor.

11.6. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the Casualty Occurrence) equal to that percentage of the Purchase Price (as defined in the Participation Agreement) of such Item of Equipment set forth in the Schedule of Casualty Value attached hereto as Schedule C opposite such date of payment.

11.7. Risk of Loss. The Lessee shall bear the risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Casualty Value and all rental installments and other sums due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessee and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.8. Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessee's obligation to pay all installments of rental and other sums shall continue for the duration of such requisitioning or taking. So long as no Event of Default has occurred and is continuing, the Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

11.9. Voluntary Termination. Unless an Event of Default (as defined in Section 14 hereof) or other event which, with notice, demand and/or lapse of time, would constitute an Event of Default shall have occurred and be continuing hereunder, the Lessee shall be entitled, at its option, upon at least 90 days' prior written notice to the Lessor and the Security Trustee, to terminate this Lease if the Lessee shall have made a good faith determination that all (but not less than all) of the Units have become obsolete or otherwise uneconomical for use in the Lessee's operations, which notice shall be signed by the President, any Vice President or the Treasurer of the Lessee and shall state that such Units have become obsolete or otherwise uneconomical for use in the Lessee's operations; such notice shall be accompanied by a certified copy of the resolutions of the Board of Directors of the Lessee setting forth the above referred to determination and a written statement of the President, any Vice President or the Treasurer of the Lessee to the Lessor and the Note Purchasers setting forth a summary of the basis for such determination; provided,

the Lessee with all the provisions of this Section 11.9, the obligation of the Lessee to pay rental hereunder on all rental payment dates commencing after the Termination Date shall terminate.

## SECTION 12. ANNUAL REPORTS.

12.1. Duty of Lessee to Furnish. On or before May 1, 1980 and on or before each May 1 thereafter, the Lessee will furnish to the Lessor, the Note Purchasers, the Security Trustee and any other assignee pursuant to Section 16 hereof an accurate statement, as of the preceding December 31 (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the 12 months ending on such December 31 (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.2 hereof shall have been preserved or replaced.

12.2. Lessor's Inspection Rights. The Lessor, the Note Purchasers, the Security Trustee and any other assignee thereof pursuant to Section 16 hereof each shall have the right, at their respective sole cost and expense, by their respective authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such time as shall be reasonably necessary to confirm the existence and proper maintenance of the Equipment during the continuance of this Lease.

## SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks as the Lessor may reasonably designate in the State of Oregon, or in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 90 days and transport the same at any time within such 90-day period to any reasonable place in the State of Oregon to a common carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser

of any such Item, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so assemble, deliver, store and transport the Equipment. All amounts earned in respect of the Equipment after the date of expiration of this Lease, but not exceeding the rental, per diem, or other similar charge for equipment received therefor, shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 30 days after the expiration of this Lease, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the Fair Rental Value (determined in the manner provided in Section 18 hereof) for such Item of Equipment for each such day exceeds the amount, if any, received by the Lessor (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence.

Each Item so delivered shall be in the condition in which it is required to be maintained pursuant to Sections 7 and 8 hereof. The Lessee shall deliver to the Lessor at the time at which each Item is so delivered a certificate executed by an officer of the Lessee to the effect that: (i) such Item has no basic structural weaknesses and has suffered no damage which might cause an unsafe operating condition; and (ii) such Item complies with all requirements of Sections 7 and 8 hereof. The Lessee shall deliver to the Lessor, if so requested by the Lessor, all maintenance records relating to all Items required to be redelivered pursuant to this paragraph. If so requested by the Lessor, the Lessee shall at its own cost and expense, remove any markings or designations placed on the Items pursuant to Section 4 hereof and remove any additions or accessions thereto designated by the Lessor to which the Lessee has retained title pursuant to Section 8.

#### SECTION 14. DEFAULT.

14.1. Events of Default. Any of the following events shall constitute an Event of Default hereunder:

- (a) Default shall be made in the payment of any part of the rental or Casualty Value provided in Section 2 or 11 hereof and such default shall continue for five days;

(b) The Lessee shall make or permit any assignment or transfer of this Lease, or of possession of the Equipment, or any portion thereof, not permitted by this Lease;

(c) The Lessee shall at any time fail to maintain insurance in the manner required by Section 11.1 hereof;

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

(e) Any representation or warranty made by the Lessee herein or in the Participation Agreement or in any statement or certificate furnished to the Lessor, the Security Trustee or the Note Purchasers pursuant to or in connection with this Lease or the Participation Agreement is untrue in any material respect as of the date of issuance or making thereof; or

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

(g) Any event shall occur and be continuing or any condition shall exist in respect of any indebtedness for borrowed money of, or any lease to, the Lessee, or under

any agreement securing or relating to such indebtedness for borrowed money, the effect of which is to cause (or permit any holder of such indebtedness to cause) such indebtedness in an aggregate principal amount exceeding \$100,000 to become due prior to its stated maturity or prior to its regularly scheduled dates of payments, or to cause any lessor of such lease (or its assignee) to terminate or to initiate appropriate proceedings to enforce any lease.

14.2. Remedies. If any Event of Default has occurred and is continuing, the Lessor or, in the event this Lease shall be assigned to an assignee pursuant to Section 16 hereof, such assignee, at its option, may:

(a) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof, including reasonable attorneys' fees; and/or

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of the Items of Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Items for any purpose whatever, but the Lessor shall nevertheless have a right to recover from the Lessee any and all amounts which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum with respect to each Item of Equipment which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then Fair Rental

Value of such Item for such period computed by discounting from the end of such term to the date of such termination on a basis of a 5% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, or (y) an amount equal to the excess if any of the Casualty Value of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over the amount the Lessor reasonably estimates to be the Fair Market Value thereof at such time; provided, however, that in the event the Lessor shall have sold any Item of Equipment, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (i) with respect thereto may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor, 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 of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over the net proceeds of such sale, and (ii) any damages and expenses, other than for a failure to pay rental, in addition thereto, including reasonable attorneys' fees, which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental.

For purposes of Section 14.2 above, the Fair Rental Value for any Item of Equipment shall be determined in the appraisal arrangements specified in Section 18.1(b) hereof and the Fair Market Value for any Item of Equipment shall be determined in a similar manner with appropriate adjustments for sale rather than rental, with any appraisal expenses to be borne by the Lessee; provided that any sale in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Market Value of such Item and any rental in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Rental Value of such Item.

14.3. Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law.

14.4. Lessor's Failure to Exercise Rights. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not

constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

14.5. Notice of Event of Default. The Lessee also agrees to furnish to the Lessor, the Note Purchasers and the Security Trustee, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this Section 14.5 a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1. Lessee's Duty to Return. If the Lessor or any assignee of the Lessor pursuant to Section 16 hereof shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place such Equipment in such storage place in the State of Oregon as the Lessor may reasonably designate or, in the absence of such designation, as the Lessee may select;

(b) Permit the Lessor to store such Equipment in such reasonable storage place without charge for insurance, rent or storage until such Equipment has been sold, leased or otherwise disposed of by the Lessor and during such period of storage the Lessee shall continue to maintain the insurance required by Section 11.1 hereof; and

(c) Transport the Equipment to any reasonable place in the State of Oregon to a common carrier for shipment, all as the Lessor may direct upon not less than 30 days' prior written notice from the Lessor to the Lessee.

Each Item so delivered shall be in the condition in which it is required to be maintained pursuant to Sections 7 and 8 hereof. The Lessee shall deliver to the Lessor at the time at which each Item is so delivered a certificate executed by an officer of the Lessee to the effect that: (1) such Item has no

basic structural weaknesses and has suffered no damage which might cause an unsafe operating condition; and (ii) such Item complies with all requirements of Sections 7 and 8 hereof. The Lessee shall deliver to the Lessor, if so requested by the Lessor, all maintenance records relating to all Items required to be redelivered pursuant to this paragraph. If so requested by the Lessor, the Lessee shall at its own cost and expense, remove any markings or designations placed on the Items pursuant to Section 4 hereof and remove any additions or accessions thereto designated by the Lessor to which Lessee has retained title pursuant to Section 8.

All amounts earned in respect of the Equipment after the date of termination of this Lease, but not exceeding the rental, per diem, or other similar charge for equipment received therefor, shall belong to the Lessor or in the event this Lease has been assigned pursuant to Section 16 hereof, to such assignee, and, if received by the Lessee, shall be promptly turned over to the Lessor, or in the case of such assignment, to such assignee. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 30 days after the termination of this Lease, the Lessee shall, in addition, pay to the Lessor or, in the case of such assignment, to such assignee for each day thereafter an amount equal to the amount, if any, by which the Fair Rental Value (determined in the manner provided in Section 18 hereof) for such Item of Equipment for each such day exceeds the amount, if any, received by the Lessor or such assignee (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence.

15.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment.

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item.

#### SECTION 16. ASSIGNMENTS BY LESSOR.

This Lease and all rent and all other sums due or to become due hereunder may be assigned in whole or in part by the

Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. Upon notice to the Lessee of any such assignment, the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to or upon the written order of the assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provision of this Lease shall not be subject to any abatement whatsoever and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever whether by reason of failure of or defect in the Lessor's title, or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of such assignee, the Lessee shall be unconditionally and absolutely obligated to pay such assignee all of the rents and other sums which are the subject matter of the assignment, (ii) said assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of said assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor (except those rights, privileges and remedies relating to amounts payable to the Lessor pursuant to Sections 6, 10.2, 11.1 [with respect to public liability insurance] and 20.2 hereof which shall remain enforceable by the Lessor), and (iii) all obligations of the Lessor to the Lessee under this Lease shall be and remain enforceable by the Lessee against, and only against, the Lessor.

It is understood and agreed that the right, title and interest of any such assignee in, to and under this Lease and the rents and other sums due and to become due hereunder shall by the express terms granting and conveying the same be subject to the interest hereunder of the Lessee in and to the Equipment.

#### SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION.

17.1. Lessee's Rights to the Equipment. So long as no Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee

shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the provisions of Section 17.2 hereof.

17.2. Use and Possession on Lines Other Than Lessee's Own. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad owned or operated by any railroad company or companies incorporated in the United States of America (or any state thereof or District of Columbia) or over which such railroad company or companies have trackage rights or rights for operation of their trains, and upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all of the terms and conditions of this Lease. Notwithstanding the foregoing, the Lessee covenants, represents and warrants that any use of the Equipment outside the United States during any calendar year by any person or entity shall be de minimus and the Equipment shall be used in a manner so as to remain "section 38 property" as defined in the Code as in effect on the date hereof. The Lessor hereby consents to (i) the execution and delivery by the Lessee of a sublease of the Equipment to AMAX, Inc. and the sublease by AMAX, Inc. of such Equipment and (ii) the execution and delivery by the Lessee of a lease of the Equipment to any Person owning or operating coal handling facilities at an electric generating station under construction or in operation, which station is owned in whole or in part by Lessee, provided that each such sublease shall state that it is subject to this Lease and all the terms hereof, provided that Lessee shall have caused to be delivered, at the Lessee's expense, to the Lessor and any assignee thereof such opinions of counsel, filings, recordations and such other documents as the Lessor or such assignee shall reasonably request to maintain the title of the Lessor to, and the right title and interest of the Security Trustee in the Equipment. No such sublease shall relieve Lessee of any of its obligations hereunder which shall be and remain those of a principal and not of a surety, except that payment, to the Persons entitled to payment hereunder, or performance, by AMAX, Inc., its sublessees or any Person referred to in (ii) above, in respect of any of the obligations of Lessee hereunder shall discharge such obligations pro tanto.

17.3. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation into or with which the Lessee shall have become merged or consolidated or which shall have acquired or leased all or substantially all of the assets of the Lessee, provided that (1) such assignees, successors or transferees shall have

duly assumed the obligations of the Lessee hereunder and that they will not, upon the effectiveness of such merger or consolidation or acquisition of properties and the assumption of such obligations, be in default under any provision of this Lease and (ii) such merger or consolidation or acquisition of properties shall not alter in any way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a guarantor.

## SECTION 18. RENEWAL OPTIONS.

18.1. Renewal Options. Provided that no Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall have the following renewal options:

(a) The Lessee shall have the option to renew and extend this Lease as to either (i) all of the Items of Equipment then leased hereunder or (ii) that number of Items of Equipment which is the greatest integer less than or equal to one-half of the number of Items of Equipment then leased hereunder for one additional renewal term of five years or such other term as the parties may agree upon and subject to the terms and conditions herein contained for the original term of this Lease; provided that the Fixed Rental payable for and during any such renewal term shall be an amount equal to the Fair Rental Value (as hereinafter defined) of such Items of Equipment. Each renewal term shall commence immediately upon the expiration of the preceding term. The Lessee shall give the Lessor written notice of any such election 180 days prior to the commencement of any renewal term provided for in this Section 18.1.

(b) The Fair Rental Value of an Item of Equipment shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease. If on or before 90 days prior to the date of commencement of the renewal term elected by the Lessee, the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value of the Item of Equipment, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term "Appraiser" shall mean two independent appraisers, one chosen by the Lessor and one chosen by the Lessee, or, if such appraisers cannot agree on the amount of such value within 60 days prior to the date of commencement of the renewal term elected by the Lessee, determined on the basis of an appraisal made by a third appraiser chosen by the American Arbitration Association. The Appraiser

shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of the Appraiser shall be borne equally by the Lessee and the Lessor.

18.2. Delivery of Equipment. Unless the Lessee has elected to purchase the Items of Equipment then leased hereunder or to renew this Lease in respect of such Items of Equipment as provided in this Section 18, all of such Items of Equipment shall be returned to the Lessor at the end of the original term, or the then current renewal term, as the case may be, in accordance with Section 13 hereof.

SECTION 19. INTEREST ON OVERDUE RENTALS AND AMOUNT PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding any nonpayment of rent due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay also an amount equal to 10.1% per annum (or the lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. MISCELLANEOUS.

20.1. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first class, postage prepaid, addressed as follows:

If to the Lessor: Wells Fargo Transport Leasing Corporation  
425 California Street  
San Francisco, California 94104

Payments to the Lessor hereunder  
to be made as follows:

If to the Note  
Purchasers: American United Life Insurance  
Company  
One West 26th Street  
Indianapolis, Indiana 46206  
  
Jefferson Standard Life Insurance  
Company  
Securities Department  
P. O. Box 21008  
Greensboro, North Carolina 27420

If to the Lessee: Portland General Electric Company  
112 Southwest Salmon Street  
Portland, Oregon 97204  
Attention: Vice President Finance

If to the Security  
Trustee: The Connecticut Bank and Trust Company  
One Constitution Plaza  
Hartford, Connecticut 06115  
Attention: Corporate Trust Department

or addressed to any such party at such other address as such party shall hereafter furnish to such other parties in writing.

20.2. Right of Lessor to Perform. If the Lessee shall fail to comply with any of its covenants herein contained, either the Lessor, or, in the case of an assignment by the Lessor pursuant to Section 16 hereof, the assignee thereunder may, but shall not be obligated to, make advances to perform the same and to take all such action as may be necessary to obtain such performance. Any payment so made by any such party and all cost and expense (including, without limitation, reasonable attorneys' fees and expenses) incurred in connection therewith shall be payable by the Lessee to the party making the same upon demand as additional rent hereunder, with interest at the rate of 10.1% per annum.

20.3. Execution in Counterparts. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

20.4. Law Governing. This Lease shall be construed in accordance with the laws of the State of Oregon; provided, however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

20.5. Headings and Table of Contents. All Section headings and the Table of Contents are inserted for convenience only and shall not affect any construction or interpretation of this Lease.

20.6. 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 provisions in any other jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective officers thereunder duly authorized and the corporate seals to be hereto affixed as of the day and year first above written.

WELLS FARGO TRANSPORT LEASING CORPORATION

[CORPORATE SEAL]

ATTEST:

Charles A. [Signature]  
Secretary

By Theodore J. [Signature]  
Its SENIOR VICE PRESIDENT

By [Signature]  
Its VICE PRESIDENT

PORTLAND GENERAL ELECTRIC COMPANY

[CORPORATE SEAL]

ATTEST:

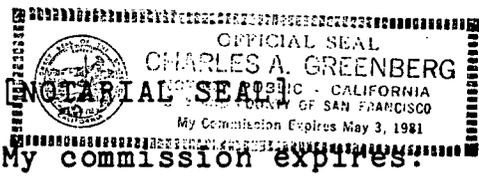
S/ DALLAS A. MARCKX  
ASST. Secretary

By S/ K. L. HARRISON  
Its VICE PRESIDENT

STATE OF CALIFORNIA )  
COUNTY OF San Francisco ) SS

On this 26 day of February, before me personally appeared Theodor J. Logeski and Craig P. Adrian, to me personally known, who being by me duly sworn, says that they are the SVP and VP, respectively, of WELLS FARGO TRANSPORT LEASING CORPORATION, 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 they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Charles A. Greenberg  
Notary Public



STATE OF OREGON )  
COUNTY OF MULTNOMAH ) SS

On this 26<sup>th</sup> day of FEBRUARY 1979, before me personally appeared K. L. HARRISON, to me personally known, who being by me duly sworn, says that he is the VICE PRESIDENT of PORTLAND GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

S/ JOAN S. HOSMER  
Notary Public

[NOTARIAL SEAL]

My commission expires: 4-11-80  
SEALED BY JOAN S. HOSMER

DESCRIPTION OF ITEMS OF EQUIPMENT

Manufacturer of Equipment: Whittaker Corporation (Berwick Forge and Fabricating Division)

Description and Mark and Number of Items of Equipment: 230 High Side Gondola Rotary Dump Railroad Cars Marked and Numbered PGEX 1 to PGEX 4, both inclusive, and PGEX 101 to PGEX 326, both inclusive

Base Purchase Price of Equipment: \$34,300 per Item

Maximum Aggregate Purchase Price of Equipment: \$7,900,000

Place of Delivery: Berwick, Pennsylvania

Outside Delivery Date: May 1, 1979

CERTIFICATE OF ACCEPTANCE  
UNDER EQUIPMENT LEASE

TO: Wells Fargo Transport Leasing Corporation (the "Lessor")

Whittaker Corporation (Berwick Forge and Fabricating Division)  
(the "Manufacturer")

I, a duly appointed and authorized representative of Portland General Electric Company (the "Lessee") under the Equipment Lease dated as of October 1, 1978 between the Lessor and the Lessee, do hereby certify that I have inspected, received, approved and accepted delivery under the Lease of the following Items of Equipment:

TYPE OF EQUIPMENT: High Side Gondola Rotary Dump  
Railroad Cars

PLACE ACCEPTED: Berwick, Pennsylvania

DATE ACCEPTED:

NUMBER OF UNITS:

MARKED AND NUMBERED:

I do further certify that the foregoing Items of Equipment are in good order and condition, and appear to conform to the specifications applicable thereto, that the Lessee has no knowledge of any defect in any of the foregoing Items of Equipment with respect to design, manufacture, condition or in any other respect, and that each Item has been labeled by means of a plate or a stencil printed in contrasting colors upon each side of the Item in letters not less than one inch in height as follows:

"Leased from a Bank or Trust Company,  
as Owner-Trustee and Subject to a Security  
Interest Recorded with the I.C.C."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Manufacturer for any warranties it has made with respect to the Equipment.

Dated: \_\_\_\_\_, 19\_\_

\_\_\_\_\_  
Inspector and Authorized  
Representative of the Lessee

SCHEDULE B  
(to Equipment Lease)

SCHEDULE OF CASUALTY VALUE

The Casualty Value for an Item of Equipment payable on the Term Lease Commencement Date or any Fixed Rental payment date thereafter shall mean an amount equal to the percent of the Purchase Price of such Item set forth opposite such date in the following schedule:

<u>Term Lease Commencement Date or Number of Fixed Rental Payment Date on which Casualty Value is Paid</u>	<u>Percentage of Purchase Price Payable as Casualty Value</u>
Term Lease Commencement Date	101.50
1	103.00
2	104.07
3	103.70
4	103.16
5	103.04
6	95.96
7	95.47
8	94.82
9	94.00
10	86.22-
11	85.07
12	83.77
13	82.32
14	73.95
15	72.23
16	70.39
17	68.43
18	66.36
19	64.20
20	61.94-
21	59.62
22	57.21
23	54.77
24	52.26
25	49.74
26	47.17
27	44.61
28	42.02
29	39.43
30	36.83-
31	34.25
32	31.56
33	28.79
34	25.92
35	23.01
36 and thereafter during any storage period	20.00

SCHEDULE OF TERMINATION VALUE

The Termination Value for an Item of Equipment payable on the twentieth Fixed Rental payment date or any Fixed Rental payment date thereafter shall mean an amount equal to the percent of the Purchase Price of such Item set forth opposite such date in the following schedule:

<u>Fixed Rental Payment Date on which Termination Value is Paid</u>	<u>Percentage of Purchase Price Payable as Termination Value</u>
20	61.94
21	59.62
22	57.21
23	54.77
24	52.26
25	49.74
26	47.17
27	44.61
28	42.02
29	39.43
30	36.83
31	34.25
32	31.56
33	28.79
34	25.92
35	23.01
36 and thereafter during any storage period	20.00

SCHEDULE D  
(to Equipment Lease)

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EQUIPMENT LEASE

Dated as of October 1, 1978

Between

WELLS FARGO TRANSPORT LEASING CORPORATION

LESSOR

And

PORTLAND GENERAL ELECTRIC COMPANY

LESSEE

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(230 Gondola Cars)

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Attachments to Equipment Lease:

- Schedule A - Description of Items of Equipment
- Schedule B - Certificate of Acceptance
- Schedule C - Schedule of Casualty Value
- Schedule D - Schedule of Termination Value

## EQUIPMENT LEASE

THIS EQUIPMENT LEASE is dated as of October 1, 1978 between WELLS FARGO TRANSPORT LEASING CORPORATION, a California corporation (the "Lessor"), and PORTLAND GENERAL ELECTRIC COMPANY, an Oregon corporation (the "Lessee").

### R E C I T A L S:

A. Pursuant to a Purchase Order Assignment dated as of October 1, 1978, the Lessee has assigned to the Lessor its right to purchase the Equipment referred to below.

B. The Lessee and the Lessor have entered into a Participation Agreement dated as of October 1, 1978 (the "Participation Agreement") with The Connecticut Bank and Trust Company, as security trustee (the "Security Trustee") and the institutional investors named in Schedule 1 thereto (the "Note Purchasers") providing commitments of the Note Purchasers which, together with funds to be provided by the Lessor will permit the Lessor to obtain the funds necessary to purchase the equipment (collectively the "Equipment" and individually an "Item of Equipment") described in Schedule A hereto and made a part hereof. The Lessor will commit to advance an amount equal to 39.5141% of the Purchase Price of each Item of Equipment (up to \$7,900,000) and the Note Purchasers will commit to purchase the Secured Notes (the "Notes") of the Lessor in an amount equal to 60.4859% of each Item of Equipment. The Participation Agreement provides that the Notes will be secured by an assignment of the Lessor's right, title and interest in and to this Lease and in and to the Equipment pursuant to a Security Agreement-Trust Deed dated as of October 1, 1978 (the "Security Agreement") from the Lessor to the Security Trustee.

### SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

1.1. Intent to Lease and Hire. Upon delivery of each Item of Equipment by the manufacturer thereof identified in Schedule A hereto (hereinafter referred to as the "Manufacturer") and subject to the terms and conditions of the Participation Agreement, the Lessor shall lease and let such Item of Equipment to the Lessee, and the Lessee shall hire the same from the Lessor, for the rental and on and subject to the terms and conditions herein set forth.

1.2. Inspection and Acceptance. The Lessor will cause each Item of Equipment to be tendered to the Lessee at the place of delivery set forth in Schedule A. Upon such tender, the Lessee will cause an inspector designated and authorized by the Lessee to inspect the same, and, if such Item of Equipment is found to be in

good order, to accept delivery of such Item of Equipment and to execute and deliver to the Lessor and the Manufacturer thereof a Certificate of Acceptance (the "Certificate of Acceptance") in the form attached hereto as Schedule B with respect to such Item of Equipment; provided, however, that the Lessee shall not accept and the Lessor shall have no obligation to lease any Item of Equipment delivered after the Outside Delivery Date set forth in Schedule A.

1.3. Certificate of Acceptance. The Lessee's execution and delivery of a Certificate of Acceptance with respect to each Item of Equipment pursuant to Section 1.2 hereof shall conclusively establish that, as between the Lessor and the Lessee, but without limiting or otherwise affecting the Lessee's or the Lessor's rights, if any, against the Manufacturer thereof, such Item of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any defect with respect to design, manufacture, condition or in any other respect, and that such Item of Equipment is in good order and condition and appears to conform to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and to all standards recommended by the Association of American Railroads applicable to new railroad equipment of the character of the Equipment as of the date of this Lease. By execution and delivery of such Certificate of Acceptance, the Lessee represents that it has no knowledge of any such defect.

## SECTION 2. RENTALS AND PAYMENT DATES.

2.1. Rent for Equipment. The Lessee agrees to pay the Lessor the following rent for each Item of Equipment:

(a) Interim Rental. For each Item of Equipment, an amount per day (the "Interim Rental") equal to 0.025278% of the Purchase Price thereof for the period, if any, from and including the Closing Date (as defined in the Participation Agreement) for such Item of Equipment to, but not including, May 1, 1979 (the "Term Lease Commencement Date"); and

(b) Fixed Rental. For each Item of Equipment, thirty-six consecutive semiannual installments of fixed rental (the "Fixed Rental"), payable in arrears, each in an amount equal to 3.87932% of the Purchase Price thereof.

2.2. Rent Payment Dates. The installment of Interim Rental for each Item of Equipment shall be due and payable on the Term Lease Commencement Date. The first installment of Fixed Rental for each Item of Equipment shall be due and payable six

months following the Term Lease Commencement Date and the balance of said installments shall be payable at six-month intervals thereafter with the final such installment payable eighteen years following the Term Lease Commencement Date. If any of the rent payment dates is not a business day, the rent payment otherwise payable on such date shall be payable on the next succeeding business day. For purposes of this Lease, the term "business day" means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of Connecticut, Oregon or California are authorized or required to close.

2.3. Adjustment of Rentals. In the event that (i) the sum of all expenses paid by the Lessor pursuant to Section 2.7 of the Participation Agreement exceeds an amount equal to 1/2% of the Purchase Price of the Equipment, or (ii) an amendment to the Internal Revenue Code of 1954, as amended (the "Code"), shall be enacted which is to take effect on or prior to December 31, 1979 and which alters or eliminates any of the Tax Benefits (as defined in Section 7(a) of the Participation Agreement) or the applicable rate of taxation of income of the Lessor under the Code, then the Lessee and the Lessor agree that the Fixed Rentals shall be adjusted to such amount as shall, in the reasonable opinion of the Lessor, cause the Lessor's net after-tax rate of return on investment and annual net cash flows (computed on the same assumptions, including tax rates, as were utilized by the Lessor in originally evaluating this transaction) to equal the net after-tax rate of return on investment and annual net cash flows that would have been realized by the Lessor if the conditions specified in clause (i) or (ii) had not occurred, and the Casualty Values and Termination Values shall similarly be adjusted in amounts reasonably determined by the Lessor.

Anything in this Section 2.3 to the contrary notwithstanding, the amounts payable as installments of Fixed Rental, Casualty Values and Termination Values hereunder with respect to any Item of Equipment (i) shall in no event be reduced below amounts necessary to discharge that portion of the principal of and/or interest on the Notes due and payable on each rent payment date under this Lease, and (ii) shall comply with the guidelines for Internal Revenue Service rulings on leveraged leases set forth in Revenue Procedures 75-21 and 75-28.

2.4. Place and Manner of Rent Payment. The payments to be made by the Lessee under this Lease shall be made as follows:

(a) The installment of Interim Rental shall be paid to the Lessor by wire transfer to the principal office of the Lessor at the address thereof provided for payments in Section 20.1 hereof; provided that in the event the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of

such installment shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by wire transfer to the place designated in such notice or as otherwise designated from time to time in writing by such assignee;

(b) The portion of any installment of Fixed Rental resulting from an increase in the amount thereof pursuant to Section 2.3 hereof shall be paid in full to the Lessor by wire transfer to the principal office of the Lessor at the address provided for payments in Section 20.1 hereof;

(c) Each installment of Fixed Rental shall be paid to the Lessor by wire transfer to the principal office of the Lessor at the address thereof provided for payments in Section 20.1 hereof; provided that in the event the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of such installment shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by wire transfer to the place designated in such notice or as otherwise designated from time to time in writing by such assignee.

(d) The entire amount of any payment of Casualty Value pursuant to Section 11 hereof shall be paid to the Lessor by wire transfer (with a concurrent written notice) identifying the same as a payment of Casualty Value relating to Portland General Electric Company Equipment Lease dated as of October 1, 1978 and forwarded to the Lessor in the manner provided for notices in Section 20.1 hereof; provided that in the event the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of such Casualty Value shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment in the manner designated in such notice or as otherwise designated from time to time in writing by such Assignee;

(e) The amount of any payment owing to the Lessor pursuant to Sections 6, 10.2, 11.1 (with respect to public liability insurance) and 20.2 hereof shall be made directly to the party to receive the same without regard to the assignment of this Lease pursuant to Section 16 hereof;

(f) The amount of any interest due in respect of the late payment of any rentals or other amounts pursuant to Section 19 hereof shall be paid to the party and in the manner herein provided to receive said rental or other amount; and

(g) All payments other than those above specified shall be made by the Lessee directly to the party to

receive the same unless any such payment has previously been made by the Lessor or its assignee, in which case the Lessee shall reimburse the Lessor or its assignee, as the case may be, directly for such payment.

The Lessee agrees that it will make payments due hereunder by wire transfer where specified above at the opening of business at the office of the transferring bank on the due date of such payment of Federal or otherwise immediately available funds to the party to whom such payment is to be made, and where not so specified, such payment shall be made by check of the Lessee drawn on a bank located in the continental United States and mailed to the party to receive the same at the address herein provided or at such other address as the Lessee shall have been previously advised in writing.

2.5. Net Lease. This Lease is a net lease and the Lessee's obligation to pay all Interim Rental and Fixed Rental and other amounts payable hereunder shall be absolute and unconditional under any and all circumstances and, without limiting the generality of the foregoing, the Lessee shall not be entitled to any abatement of rent or reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against any assignee of the Lessor pursuant to Section 16 hereof; nor except as otherwise expressly provided herein shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, 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 unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment has been returned to the possession of the Lessor (for all purposes of this Lease any Item of Equipment shall not be deemed to have been returned to the Lessor's possession until all of the Lessee's obligations with respect to the return, transportation and storage thereof have been performed). 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 Items of Equipment except in accordance with the

express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor or any assignee pursuant to Section 16 hereof for any reason whatsoever.

SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of the delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Sections 11, 14 and 18 hereof, shall terminate eighteen years following the Term Lease Commencement Date provided for in Section 2.1(a) hereof.

SECTION 4. OWNERSHIP AND MARKING OF EQUIPMENT.

4.1. Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and possession and use thereof by the Lessee.

4.2. Duty to Number and Mark Equipment. The Lessee will cause each Item of Equipment to be kept numbered with its road number as set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height as follows:

"Leased from a Bank or Trust Company,  
as Owner-Trustee and Subject to a  
Security Interest recorded with the I.C.C."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16 hereof. The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. The Lessee will not change the road number of any Item of Equipment except with the consent of the Lessor and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been delivered to the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

4.3. Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation which would constitute a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of the right of the Lessee to use the Equipment under this Lease.

SECTION 5. DISCLAIMER OF WARRANTIES.

THE LESSOR LEASES THE EQUIPMENT, AS-IS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, BY THE LESSOR, AND THE LESSOR AND ANY ASSIGNEE THEREOF PURSUANT TO SECTION 16 HEREOF EXPRESSLY DISCLAIM ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, (D) THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, OR (E) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer and will cooperate with the Lessee in pursuing the same, provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Item of Equipment 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 Item of Equipment 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 Item of Equipment. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that all Items of Equipment described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

SECTION 6. LESSEE'S INDEMNITY.

6.1. Scope of Indemnity. The Lessee shall defend, indemnify and save harmless the Lessor, the Note Purchasers and the Security Trustee and their respective successors and assigns from and against:

(a) any and all loss or damage to the Equipment, usual wear and tear excepted; and

(b) any claim, cause of action, damages, liability, cost or expense (including, without limitation, reasonable counsel fees and costs in connection therewith) which may be incurred in any manner by or for the account of any of them (i) relating to any Item of Equipment or any part thereof, including, without limitation, the construction, purchase, delivery, acceptance, rejection, ownership, sale, leasing, return or storage of any Item of Equipment or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects are latent or discoverable by the Lessee or any indemnified party), (ii) by reason or as the result of any act or omission (whether negligent or otherwise) of the Lessee for itself or as agent or attorney-in-fact for the Lessor hereunder, (iii) as a result of claims for patent, trademark or copyright infringements, or (iv) as a result of claims for negligence or strict liability in tort.

All amounts for which the Lessee is obligated pursuant to the foregoing sentence are hereinafter referred to as "Expenses." The foregoing indemnity shall not apply to (i) Expenses to be borne pursuant to the express provisions hereof, of the Participation Agreement or of the Security Agreement by the party otherwise to be indemnified hereunder, (ii) Expenses arising from acts or events which occur after possession of the Equipment has been surrendered to Lessor or the Security Trustee, or after the Equipment has been sold by Lessor to Lessee at the expiration of the Lease Term, (iii) Expenses described in Section 10 (except to the extent indemnification is provided for in that Section), (iv) Expenses resulting from the willful misconduct or gross negligence of the party otherwise to be indemnified hereunder, (v) Expenses resulting from the breach of any warranty or duty under this Lease, the Participation Agreement or the Security Agreement by the party otherwise to be indemnified hereunder and (vi) any Expenses claimed by or on behalf of any broker, finder or agent by reason of any arrangement or understanding with any Note Purchaser or the Lessor. If either the Lessor or the Lessee has knowledge of any claim or liability hereby indemnified against, it shall give prompt written notice thereof to the other, but the omission by the Lessor or any other party so to notify the Lessee shall not relieve the Lessee from any liability which it may have to any indemnified

party hereunder. With respect to any amount which the Lessee is requested to pay by reason of this Section 6.1, the Lessor, the Security Trustee or Note Purchaser, as the case may be, shall, if requested by the Lessee and prior to any payment, submit such additional information to the Lessee as the Lessee may reasonably require properly to substantiate the requested payment. In case any such action shall be brought against any indemnified party, and it shall notify the Lessee of the commencement thereof, the Lessee shall be entitled to participate in, and, to the extent that it shall wish, to assume the defense thereof, with counsel satisfactory to such indemnified party, and after notice from the Lessee to such indemnified party of its election so to assume the defense thereof, the Lessee shall not be liable to such indemnified party hereunder for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation.

The indemnities and assumptions of liabilities set forth in this Section 6.1 do not guarantee a residual value in the Equipment nor do they guarantee the payment of the Notes or any interest accrued thereon.

6.2. Continuation of Indemnities and Assumptions. The indemnities and assumptions of liability in this Section 6 contained shall continue in full force and effect notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise; provided, however, that such indemnities and assumptions of liability shall not apply in respect of any matters referred to in subsection (a) or clause (i), (ii) or (iv) of subsection (b) of Section 6.1 hereof, arising from acts or events occurring after the termination of this Lease, except for any such matters occurring after the termination arising in connection with the Lessee's assembling, delivering, storing or transporting of the Equipment as provided in Section 13 or 15, as the case may be.

## SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including, without limitation, the rules of the United States Department of Transportation, the Interstate Commerce Commission and the current Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads as the same may be in effect from time to time [the "Interchange Rules"]) with respect to the use and maintenance of each Item of Equipment subject to this Lease. In case any equipment or appliance is required to be altered, added, replaced or modified on any Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, additions, replacements and/or modifications at its own expense and title thereto shall be immediately vested in the Lessor.

The Lessee agrees that, within 30 days after the close of any calendar quarter in which the Lessee has made Alterations, the Lessee will give written notice thereof to the Lessor describing, in reasonable detail, the Alterations and specifying the cost thereof with respect to each Item of Equipment and the date or dates when made.

#### SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange in accordance with the Interchange Rules. Except as required by the provisions of Section 7 hereof, the Lessee shall not modify any Item of Equipment in any manner which would adversely affect its originally intended use or commercial value without the prior written authority and approval of the Lessor and any assignee pursuant to Section 16 hereof which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to Section 7 hereof or pursuant to its obligation to maintain and keep the Equipment in good order, condition and repair under this Section 8 shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor without cost or expense to the Lessor. The Lessee shall make no other additions or improvements to any Item of Equipment unless the same are readily removable without causing material damage to such Item of Equipment. Title to any such readily removable additions or improvements shall remain with the Lessee. If the Lessee shall at its cost cause such readily removable additions or improvements to be made to any Item of Equipment, the Lessee agrees that it will, prior to the return of such Item of Equipment to the Lessor hereunder, remove the same at its own expense without causing material damage to such Item of Equipment.

#### SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee shall pay or satisfy and discharge any and all claims against, through or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon any Item of Equipment, and any liens or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not endanger the title and interest of the Lessor or the security interest or other rights of any assignee under Section 16 hereof

in and to the Equipment, provided that nothing herein shall require the Lessee to discharge inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like liens arising in the ordinary course of business which are not delinquent, or are bonded, or the enforcement of which is suspended but only for the duration of such suspension. The Lessee's obligations under this Section 9 shall survive the termination of this Lease in respect of any such liens arising by virtue of acts or events occurring during the term hereof and any period of storage provided for herein.

SECTION 10. FILING; PAYMENT OF STATE AND LOCAL TAXES.

10.1. Filing. Prior to delivery and acceptance of the first Item of Equipment, the Lessee will, at its sole expense, cause this Lease and the Security Agreement to be duly filed, registered or recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and in such other places within or without the United States as the Lessor or the Security Trustee may reasonably request and will furnish the Lessor and the Security Trustee proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, reregister or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Security Trustee, for the purpose of protecting the Lessor's title to the Equipment, or the Lessor's or the Security Trustee's security interest under the Security Agreement to the reasonable satisfaction of the Lessor's or the Security Trustee's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor and the Security Trustee proof of such filings and an opinion satisfactory to the Lessor and the Security Trustee of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, refile, recording and rerecording or depositing and redepositing of any such instruments or incident to the taking of such action.

10.2. Payment of State and Local Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor, the Note Purchasers, the Security Trustee or any assignee thereof pursuant to Section 16 hereof (the "Indemnitees") for collection or other charges and will be free of expense to the Indemnitees with respect to the amount of any local, state, Federal or foreign taxes (other than (i) any Federal income tax including minimum tax for tax preferences [and, to the extent that any respective Indemnitee receives the benefit of an equivalent credit therefor against its United States Federal income tax liability, any foreign income tax of such Indemnitee] or other taxes, fees or charges imposed by the United States, on or based on or measured in whole or in part by the net income of any Indemnitee payable by any respective Indemnitee in consequence of the receipt of payments

provided herein; (ii) Federal income or other taxes, fees, or other charges on or based on or measured by revenue, receipts or income of any Indemnitee imposed in whole or in part in lieu of or as a substitute or alternate for any tax described in (i) above; (iii) the aggregate of all state and local taxes imposed on any Indemnitee which are franchise taxes or taxes on engaging in business activities, employing capital, doing business or the privilege of doing business (whether or not imposed on or based on or measured by net income) or revenue, receipts or income taxes, or a tax imposed in whole or in part in lieu of or as a substitute or alternate for a tax on or based on or measured by revenue, receipts, or income, but only up to the amount of any such taxes which would be payable to the state and city in which such Indemnitee has its principal place of business; and (iv) any capital levy, estate, succession or inheritance taxes, except any such tax as set forth in clauses (i), (ii), (iii) and (iv) which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments or license fees and any charges, fines or penalties in connection therewith (hereinafter called "Impositions") hereafter levied or imposed upon or in connection with or measured by this Lease or any sale (other than a voluntary sale or other voluntary disposition when no Event of Default has occurred and is continuing and this Lease has not been terminated pursuant to Section 11 hereof), rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Item of Equipment or for the use or operation thereof or upon any Indemnitee solely by reason of its interest with respect thereto. If any Impositions shall have been charged or levied against any Indemnitee directly and paid by such Indemnitee, the Lessee shall reimburse such Indemnitee on presentation of invoice therefor. Prior to making such payment, such Indemnitee shall promptly notify the Lessee of the Impositions charged or levied, and the Lessee shall have the opportunity to contest in good faith and by appropriate legal proceedings such Impositions, at its sole expense.

In the event any reports with respect to Impositions are required to be made on the basis of individual Items of Equipment, the Lessee will either prepare and file such reports in such manner as to show as required the interests of each Indemnitee in such Items of Equipment or, if it shall not be permitted to file the same, it will notify each Indemnitee of such reporting requirements, prepare such reports in such manner as shall be satisfactory to each Indemnitee and deliver the same to each Indemnitee within a reasonable period prior to the date the same is to be filed.

In the event that, during the continuance of this Lease, any Imposition accrues or becomes payable or is levied or assessed (or is attributable to the period of time during which this Lease is in existence) which the Lessee is or will be obligated to pay or reimburse, pursuant to this Section 10.2, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

SECTION 11. INSURANCE; PAYMENT FOR CASUALTY OCCURRENCE.

11.1. Insurance. The Lessee agrees that it will at all times during the term of this Lease and during any storage period hereunder and at its own cost and expense keep each Item of Equipment insured against loss by all risk and explosion and with extended coverage and against such other risks as are customarily insured against by railroad companies at not less than the Casualty Value of such Item of Equipment as of the next following date of payment thereof and will maintain general public liability insurance with respect to the Equipment against damage because of bodily injury, including death, or damage to property of others, such insurance to afford protection to the limit of not less than \$10,000,000 in the aggregate in any single occurrence. [Notwithstanding the foregoing, the Lessee may self-insure against damage to the Equipment from risks which are commonly self-insured against by similarly situated corporations which own, operate or use rail cars, provided that the Lessee shall maintain such insurance with respect to the Equipment at least against such risks and in such amounts as may be from time to time maintained by the Lessee with respect to other railroad equipment owned or leased by it.] Any public liability insurance may have deductible provisions to no greater extent than \$500,000 in the aggregate in any single occurrence except as otherwise agreed by the parties hereto. All such insurance shall cover the interest of the Lessor, the Lessee and the Security Trustee in the Equipment or, as the case may be, shall protect the Lessor, the Lessee and the Security Trustee in respect of risks arising out of the condition, maintenance, use, ownership and operation of the Equipment and shall provide that the losses, if any, in respect to the Equipment shall be payable to the Lessor; provided, however, that upon receipt by the Lessee of notice of the assignment of this Lease and the rents and other sums payable hereunder the Lessee shall cause the property insurance on the Equipment to provide that the losses, if any, shall be payable (except as provided below) to the Security Trustee under a standard mortgage loss payable clause satisfactory to the Lessor, the Lessee and the Security Trustee. Payments under all policies not required pursuant to this Section 11.1, but maintained at the sole discretion of the Lessee, shall be payable to and for the sole account of the Lessee. All policies of insurance maintained pursuant to this Section shall provide that 10 days' prior written notice of cancellation or material alteration shall be given to the Lessor and the Security Trustee and that such insurance as to the interest of the Lessor or the Security Trustee therein shall not be invalidated by any act or neglect of the Lessor or the Lessee or by any foreclosure or other remedial proceedings or notices thereof relating to the Equipment or any interest therein nor by any change in the title or ownership of the Equipment or any interest therein or with respect thereto or by the use or operation of the Equipment for purposes more hazardous than is permitted by such policy.

No such policy shall require co-insurance. The loss, if any, shall be adjusted only with the approval of the Lessee, the Lessor and the Security Trustee. All such policies shall provide that the loss, if any, thereunder shall be adjusted and paid as provided in this Lease. The Lessee shall further furnish the Lessor and the Security Trustee with certificates or other satisfactory evidence of maintenance of the insurance required hereunder and with respect to any renewal policy or policies shall promptly furnish certificates evidencing such renewal. All insurance provided for in this Section shall be effective with insurance companies which have been assigned policyholder ratings of "A" or "B" and a financial size category of Class 7 or larger, as published by A. M. Best Company in the most current edition of Best's Key Rating Guide; provided, however, that the Lessee reserves the right to place insurance covering public liability and property damage to the Equipment with a person or association or other organization of substantial financial resources which has been created by persons engaged in the utility business or in the business of owning, operating or using equipment similar to the Equipment for the purpose of providing insurance for such damage.

The proceeds of any property insurance received by the Lessor or the Security Trustee will be paid to the Lessee either (i) upon a written application signed by the Lessee for payment of, or to reimburse the Lessee for payment of, the costs of repairing, restoring or replacing the Item of Equipment which has been lost, damaged or destroyed (which application shall be accompanied by satisfactory evidence of such cost and the completion of such repair, restoration or replacement) or (ii) if this Lease is terminated with respect to such Item of Equipment because of the destruction as set forth in Section 11.5 hereof; provided that, if the Lessee is at the time of the application in default in the payment of any other liability of the Lessee to the Lessor hereunder, such proceeds may be applied against such liability.

11.2. Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged during the term of this Lease or thereafter while such Item of Equipment is in the possession of the Lessee pursuant to Section 13 or 15 hereof, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease for a stated period which exceeds the then remaining term of this Lease, including any requisition of title (any such occurrence being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor and any assignee thereof pursuant to Section 16 hereof in regard thereto and shall pay the Casualty Value (as defined in Section 11.6 hereof) of such Item in accordance with the terms of Section 11.3 hereof.

11.3. Sum Payable for Casualty Loss. The Lessee, on the next succeeding rent payment date following its notice of a

Casualty Occurrence with respect to any Item or Items of Equipment, shall pay to the Lessor the Interim or Fixed Rental installment due on such payment date for such Item of Equipment plus any rentals or other sums due on or prior to such date then remaining unpaid plus a sum equal to the Casualty Value of such Item of Equipment as of the date of such payment. The Casualty Values as set forth in Schedule C to the Lease include amounts attributable to the Federal income tax indemnification which would be payable by the Lessee pursuant to Section 5 of the Participation Agreement with respect to a loss of the Investment Credit and the Depreciation Deduction as defined in Section 5 of the Participation Agreement. The Casualty Values assume that the Casualty Occurrence has occurred prior to the rental payment date on which the Casualty Value is paid but after the immediately preceding rental payment date. If the Casualty Occurrence is on a date prior to such immediately preceding rental payment date, and, as of such date, tax benefits are lost, recaptured or disallowed (e.g. investment tax credit would not have vested until the date the Casualty Value is paid), then Lessee shall pay to Lessor, on the date of payment of the Casualty Value, an additional amount which, after deduction of all taxes required to be paid by Lessor in respect of the receipt thereof under the laws of any Federal, state, local or foreign government or taxing authority (including any penalties and interest due to underpayment of estimated tax), will in the reasonable opinion of Lessor when added to the Casualty Value paid by the Lessee to the Lessor cause Lessor's net after-tax yield and net after-tax cash flow to equal the net after-tax yield and net after-tax cash flow that Lessor would have realized had the Casualty Value so paid been paid on the rental payment date immediately following the Casualty Occurrence.

11.4. Rent Termination. Upon (and not until) payment of all sums required to be paid pursuant to Section 11.3 hereof in respect of any Item or Items of Equipment, the obligation to pay rent for such Item or Items of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rent for all other Items of Equipment.

11.5. Disposition of Equipment. The Lessee shall as agent for the Lessor dispose of any Item or Items of Equipment having suffered a Casualty Occurrence as soon as it is able to do so for the fair market value thereof. Any such disposition shall be on an "as-is", "where-is" basis without representation or warranty express or implied. As to each separate Item of Equipment so disposed of, so long as no Event of Default has occurred and is continuing, the Lessee shall, upon payment of all sums required to be paid Lessor pursuant to Section 11.3 hereof, retain all amounts arising from such disposition plus any proceeds of insurance maintained with respect to the equipment by the Lessee (excluding the proceeds of any insurance maintained at the sole discretion of the Lessee, which proceeds shall be retained by the Lessee solely for its benefit) received by the Lessee by reason of such Casualty Occurrence up to the Casualty Value and shall remit the excess, if any, to the Lessor.

11.6. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the Casualty Occurrence) equal to that percentage of the Purchase Price (as defined in the Participation Agreement) of such Item of Equipment set forth in the Schedule of Casualty Value attached hereto as Schedule C opposite such date of payment.

11.7. Risk of Loss. The Lessee shall bear the risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Casualty Value and all rental installments and other sums due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessee and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.8. Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessee's obligation to pay all installments of rental and other sums shall continue for the duration of such requisitioning or taking. So long as no Event of Default has occurred and is continuing, the Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

11.9. Voluntary Termination. Unless an Event of Default (as defined in Section 14 hereof) or other event which, with notice, demand and/or lapse of time, would constitute an Event of Default shall have occurred and be continuing hereunder, the Lessee shall be entitled, at its option, upon at least 90 days' prior written notice to the Lessor and the Security Trustee, to terminate this Lease if the Lessee shall have made a good faith determination that all (but not less than all) of the Units have become obsolete or otherwise uneconomical for use in the Lessee's operations, which notice shall be signed by the President, any Vice President or the Treasurer of the Lessee and shall state that such Units have become obsolete or otherwise uneconomical for use in the Lessee's operations; such notice shall be accompanied by a certified copy of the resolutions of the Board of Directors of the Lessee setting forth the above referred to determination and a written statement of the President, any Vice President or the Treasurer of the Lessee to the Lessor and the Note Purchasers setting forth a summary of the basis for such determination; provided,

however, that such termination shall become effective only on a rental payment date specified in Section 2 hereof (hereinafter called the Termination Date) and, in no event, prior to ten years after the Term Lease Commencement Date; and provided, further, that such termination shall not take effect unless the Lessee shall have fully complied with the succeeding paragraphs of this Section 11.9.

During the period from the giving of such notice to the Termination Date, the Lessee, as agent for the Lessor, shall use its best efforts to obtain bids for the purchase of the Equipment on an "as-is, where-is" basis, and the Lessee shall certify to the Lessor in writing the amount of each bid received and the name and address of the person (who shall not be the Lessee or any person, firm or corporation affiliated with the Lessee) submitting such bid. An "affiliate" of the Lessee shall mean any person who possesses, directly or indirectly, the right to vote at least 20% of the voting securities of the Lessee, and any person who, directly or indirectly, controls or is controlled by or is under common control with the Lessee, and "control" (including "controlled by" and "under common control with"), as used with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or control the direction of the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise. On the Termination Date, the Lessor shall, without recourse or warranty, sell the Equipment for cash to whomsoever shall have submitted the highest bid therefor prior to the Termination Date, and thereupon the Lessee shall cause the Equipment to be delivered to the Lessor or as the Lessor shall direct in accordance with the terms of Section 14 hereof. If the sale of the Equipment shall not occur on the Termination Date this Lease shall continue in full force and effect. The Lessor shall be under no duty to (but may) solicit bids, to inquire into the efforts of the Lessee to obtain bids or otherwise to take any action in connection with any such sale other than as expressly provided in this Section 11.9.

The total sale price realized at any such sale of the Equipment shall be retained by the Lessor and, in addition, the Lessee shall pay to the Lessor on the Termination Date the excess, if any, of (i) the Termination Value of the Equipment, which shall be the percentage of the Purchase Price of the Equipment set forth in Schedule D opposite the number which corresponds to the Termination Date, over (ii) the proceeds of such sale less all expenses (including reasonable attorneys' fees) incurred by the Lessor in connection with such sale or with the collection or distribution of such payment. The Lessee shall also be obligated to pay the Lessor on the Termination Date any and all rentals and other sums due hereunder with respect to the Equipment accrued up to and including the Termination Date. In the event of such sale and compliance by

the Lessee with all the provisions of this Section 11.9, the obligation of the Lessee to pay rental hereunder on all rental payment dates commencing after the Termination Date shall terminate.

## SECTION 12. ANNUAL REPORTS.

12.1. Duty of Lessee to Furnish. On or before May 1, 1980 and on or before each May 1 thereafter, the Lessee will furnish to the Lessor, the Note Purchasers, the Security Trustee and any other assignee pursuant to Section 16 hereof an accurate statement, as of the preceding December 31 (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the 12 months ending on such December 31 (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.2 hereof shall have been preserved or replaced.

12.2. Lessor's Inspection Rights. The Lessor, the Note Purchasers, the Security Trustee and any other assignee thereof pursuant to Section 16 hereof each shall have the right, at their respective sole cost and expense, by their respective authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such time as shall be reasonably necessary to confirm the existence and proper maintenance of the Equipment during the continuance of this Lease.

## SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks as the Lessor may reasonably designate in the State of Oregon, or in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 90 days and transport the same at any time within such 90-day period to any reasonable place in the State of Oregon to a common carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser

of any such Item, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so assemble, deliver, store and transport the Equipment. All amounts earned in respect of the Equipment after the date of expiration of this Lease, but not exceeding the rental, per diem, or other similar charge for equipment received therefor, shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 30 days after the expiration of this Lease, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the Fair Rental Value (determined in the manner provided in Section 18 hereof) for such Item of Equipment for each such day exceeds the amount, if any, received by the Lessor (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence.

Each Item so delivered shall be in the condition in which it is required to be maintained pursuant to Sections 7 and 8 hereof. The Lessee shall deliver to the Lessor at the time at which each Item is so delivered a certificate executed by an officer of the Lessee to the effect that: (i) such Item has no basic structural weaknesses and has suffered no damage which might cause an unsafe operating condition; and (ii) such Item complies with all requirements of Sections 7 and 8 hereof. The Lessee shall deliver to the Lessor, if so requested by the Lessor, all maintenance records relating to all Items required to be redelivered pursuant to this paragraph. If so requested by the Lessor, the Lessee shall at its own cost and expense, remove any markings or designations placed on the Items pursuant to Section 4 hereof and remove any additions or accessions thereto designated by the Lessor to which the Lessee has retained title pursuant to Section 8.

#### SECTION 14. DEFAULT.

14.1. Events of Default. Any of the following events shall constitute an Event of Default hereunder:

- (a) Default shall be made in the payment of any part of the rental or Casualty Value provided in Section 2 or 11 hereof and such default shall continue for five days;

(b) The Lessee shall make or permit any assignment or transfer of this Lease, or of possession of the Equipment, or any portion thereof, not permitted by this Lease;

(c) The Lessee shall at any time fail to maintain insurance in the manner required by Section 11.1 hereof;

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

(e) Any representation or warranty made by the Lessee herein or in the Participation Agreement or in any statement or certificate furnished to the Lessor, the Security Trustee or the Note Purchasers pursuant to or in connection with this Lease or the Participation Agreement is untrue in any material respect as of the date of issuance or making thereof; or

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

(g) Any event shall occur and be continuing or any condition shall exist in respect of any indebtedness for borrowed money of, or any lease to, the Lessee, or under

any agreement securing or relating to such indebtedness for borrowed money, the effect of which is to cause (or permit any holder of such indebtedness to cause) such indebtedness in an aggregate principal amount exceeding \$100,000 to become due prior to its stated maturity or prior to its regularly scheduled dates of payments, or to cause any lessor of such lease (or its assignee) to terminate or to initiate appropriate proceedings to enforce any lease.

14.2. Remedies. If any Event of Default has occurred and is continuing, the Lessor or, in the event this Lease shall be assigned to an assignee pursuant to Section 16 hereof, such assignee, at its option, may:

(a) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof, including reasonable attorneys' fees; and/or

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of the Items of Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Items for any purpose whatever, but the Lessor shall nevertheless have a right to recover from the Lessee any and all amounts which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum with respect to each Item of Equipment which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then Fair Rental

Value of such Item for such period computed by discounting from the end of such term to the date of such termination on a basis of a 5% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, or (y) an amount equal to the excess if any of the Casualty Value of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over the amount the Lessor reasonably estimates to be the Fair Market Value thereof at such time; provided, however, that in the event the Lessor shall have sold any Item of Equipment, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (i) with respect thereto may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor, 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 of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over the net proceeds of such sale, and (ii) any damages and expenses, other than for a failure to pay rental, in addition thereto, including reasonable attorneys' fees, which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental.

For purposes of Section 14.2 above, the Fair Rental Value for any Item of Equipment shall be determined in the appraisal arrangements specified in Section 18.1(b) hereof and the Fair Market Value for any Item of Equipment shall be determined in a similar manner with appropriate adjustments for sale rather than rental, with any appraisal expenses to be borne by the Lessee; provided that any sale in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Market Value of such Item and any rental in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Rental Value of such Item.

14.3. Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law.

14.4. Lessor's Failure to Exercise Rights. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not

constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

14.5. Notice of Event of Default. The Lessee also agrees to furnish to the Lessor, the Note Purchasers and the Security Trustee, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this Section 14.5 a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1. Lessee's Duty to Return. If the Lessor or any assignee of the Lessor pursuant to Section 16 hereof shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place such Equipment in such storage place in the State of Oregon as the Lessor may reasonably designate or, in the absence of such designation, as the Lessee may select;

(b) Permit the Lessor to store such Equipment in such reasonable storage place without charge for insurance, rent or storage until such Equipment has been sold, leased or otherwise disposed of by the Lessor and during such period of storage the Lessee shall continue to maintain the insurance required by Section 11.1 hereof; and

(c) Transport the Equipment to any reasonable place in the State of Oregon to a common carrier for shipment, all as the Lessor may direct upon not less than 30 days' prior written notice from the Lessor to the Lessee.

Each Item so delivered shall be in the condition in which it is required to be maintained pursuant to Sections 7 and 8 hereof. The Lessee shall deliver to the Lessor at the time at which each Item is so delivered a certificate executed by an officer of the Lessee to the effect that: (i) such Item has no

basic structural weaknesses and has suffered no damage which might cause an unsafe operating condition; and (ii) such Item complies with all requirements of Sections 7 and 8 hereof. The Lessee shall deliver to the Lessor, if so requested by the Lessor, all maintenance records relating to all Items required to be redelivered pursuant to this paragraph. If so requested by the Lessor, the Lessee shall at its own cost and expense, remove any markings or designations placed on the Items pursuant to Section 4 hereof and remove any additions or accessions thereto designated by the Lessor to which Lessee has retained title pursuant to Section 8.

All amounts earned in respect of the Equipment after the date of termination of this Lease, but not exceeding the rental, per diem, or other similar charge for equipment received therefor, shall belong to the Lessor or in the event this Lease has been assigned pursuant to Section 16 hereof, to such assignee, and, if received by the Lessee, shall be promptly turned over to the Lessor, or in the case of such assignment, to such assignee. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 30 days after the termination of this Lease, the Lessee shall, in addition, pay to the Lessor or, in the case of such assignment, to such assignee for each day thereafter an amount equal to the amount, if any, by which the Fair Rental Value (determined in the manner provided in Section 18 hereof) for such Item of Equipment for each such day exceeds the amount, if any, received by the Lessor or such assignee (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence.

15.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment.

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item.

#### SECTION 16. ASSIGNMENTS BY LESSOR.

This Lease and all rent and all other sums due or to become due hereunder may be assigned in whole or in part by the

Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. Upon notice to the Lessee of any such assignment, the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to or upon the written order of the assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provision of this Lease shall not be subject to any abatement whatsoever and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever whether by reason of failure of or defect in the Lessor's title, or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of such assignee, the Lessee shall be unconditionally and absolutely obligated to pay such assignee all of the rents and other sums which are the subject matter of the assignment, (ii) said assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of said assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor (except those rights, privileges and remedies relating to amounts payable to the Lessor pursuant to Sections 6, 10.2, 11.1 [with respect to public liability insurance] and 20.2 hereof which shall remain enforceable by the Lessor), and (iii) all obligations of the Lessor to the Lessee under this Lease shall be and remain enforceable by the Lessee against, and only against, the Lessor.

It is understood and agreed that the right, title and interest of any such assignee in, to and under this Lease and the rents and other sums due and to become due hereunder shall by the express terms granting and conveying the same be subject to the interest hereunder of the Lessee in and to the Equipment.

#### SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION.

17.1. Lessee's Rights to the Equipment. So long as no Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee

shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the provisions of Section 17.2 hereof.

17.2. Use and Possession on Lines Other Than Lessee's Own. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad owned or operated by any railroad company or companies incorporated in the United States of America (or any state thereof or District of Columbia) or over which such railroad company or companies have trackage rights or rights for operation of their trains, and upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all of the terms and conditions of this Lease. Notwithstanding the foregoing, the Lessee covenants, represents and warrants that any use of the Equipment outside the United States during any calendar year by any person or entity shall be de minimus and the Equipment shall be used in a manner so as to remain "section 38 property" as defined in the Code as in effect on the date hereof. The Lessor hereby consents to (i) the execution and delivery by the Lessee of a sublease of the Equipment to AMAX, Inc. and the sublease by AMAX, Inc. of such Equipment and (ii) the execution and delivery by the Lessee of a lease of the Equipment to any Person owning or operating coal handling facilities at an electric generating station under construction or in operation, which station is owned in whole or in part by Lessee, provided that each such sublease shall state that it is subject to this Lease and all the terms hereof, provided that Lessee shall have caused to be delivered, at the Lessee's expense, to the Lessor and any assignee thereof such opinions of counsel, filings, recordations and such other documents as the Lessor or such assignee shall reasonably request to maintain the title of the Lessor to, and the right title and interest of the Security Trustee in the Equipment. No such sublease shall relieve Lessee of any of its obligations hereunder which shall be and remain those of a principal and not of a surety, except that payment, to the Persons entitled to payment hereunder, or performance, by AMAX, Inc., its sublessees or any Person referred to in (ii) above, in respect of any of the obligations of Lessee hereunder shall discharge such obligations pro tanto.

17.3. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation into or with which the Lessee shall have become merged or consolidated or which shall have acquired or leased all or substantially all of the assets of the Lessee, provided that (i) such assignees, successors or transferees shall have

duly assumed the obligations of the Lessee hereunder and that they will not, upon the effectiveness of such merger or consolidation or acquisition of properties and the assumption of such obligations, be in default under any provision of this Lease and (ii) such merger or consolidation or acquisition of properties shall not alter in any way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a guarantor.

## SECTION 18. RENEWAL OPTIONS.

18.1. Renewal Options. Provided that no Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall have the following renewal options:

(a) The Lessee shall have the option to renew and extend this Lease as to either (i) all of the Items of Equipment then leased hereunder or (ii) that number of Items of Equipment which is the greatest integer less than or equal to one-half of the number of Items of Equipment then leased hereunder for one additional renewal term of five years or such other term as the parties may agree upon and subject to the terms and conditions herein contained for the original term of this Lease; provided that the Fixed Rental payable for and during any such renewal term shall be an amount equal to the Fair Rental Value (as hereinafter defined) of such Items of Equipment. Each renewal term shall commence immediately upon the expiration of the preceding term. The Lessee shall give the Lessor written notice of any such election 180 days prior to the commencement of any renewal term provided for in this Section, 18.1.

(b) The Fair Rental Value of an Item of Equipment shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease. If on or before 90 days prior to the date of commencement of the renewal term elected by the Lessee, the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value of the Item of Equipment, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term "Appraiser" shall mean two independent appraisers, one chosen by the Lessor and one chosen by the Lessee, or, if such appraisers cannot agree on the amount of such value within 60 days prior to the date of commencement of the renewal term elected by the Lessee, determined on the basis of an appraisal made by a third appraiser chosen by the American Arbitration Association. The Appraiser

shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of the Appraiser shall be borne equally by the Lessee and the Lessor.

18.2. Delivery of Equipment. Unless the Lessee has elected to purchase the Items of Equipment then leased hereunder or to renew this Lease in respect of such Items of Equipment as provided in this Section 18, all of such Items of Equipment shall be returned to the Lessor at the end of the original term, or the then current renewal term, as the case may be, in accordance with Section 13 hereof.

SECTION 19. INTEREST ON OVERDUE RENTALS AND AMOUNT PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding any nonpayment of rent due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay also an amount equal to 10.1% per annum (or the lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. MISCELLANEOUS.

20.1. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first class, postage prepaid, addressed as follows:

If to the Lessor: Wells Fargo Transport Leasing Corporation  
425 California Street  
San Francisco, California 94104

Payments to the Lessor hereunder  
to be made as follows:

If to the Note  
Purchasers: American United Life Insurance  
Company  
One West 26th Street  
Indianapolis, Indiana 46206

Jefferson Standard Life Insurance  
Company  
Securities Department  
P. O. Box 21008  
Greensboro, North Carolina 27420

If to the Lessee: Portland General Electric Company  
112 Southwest Salmon Street  
Portland, Oregon 97204  
Attention: Vice President Finance

If to the Security  
Trustee: The Connecticut Bank and Trust Company  
One Constitution Plaza  
Hartford, Connecticut 06115  
Attention: Corporate Trust Department

or addressed to any such party at such other address as such party shall hereafter furnish to such other parties in writing.

20.2. Right of Lessor to Perform. If the Lessee shall fail to comply with any of its covenants herein contained, either the Lessor, or, in the case of an assignment by the Lessor pursuant to Section 16 hereof, the assignee thereunder may, but shall not be obligated to, make advances to perform the same and to take all such action as may be necessary to obtain such performance. Any payment so made by any such party and all cost and expense (including, without limitation, reasonable attorneys' fees and expenses) incurred in connection therewith shall be payable by the Lessee to the party making the same upon demand as additional rent hereunder, with interest at the rate of 10.1% per annum.

20.3. Execution in Counterparts. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

20.4. Law Governing. This Lease shall be construed in accordance with the laws of the State of Oregon; provided, however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

20.5. Headings and Table of Contents. All Section headings and the Table of Contents are inserted for convenience only and shall not affect any construction or interpretation of this Lease.

20.6. 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 provisions in any other jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective officers thereunder duly authorized and the corporate seals to be hereto affixed as of the day and year first above written.

WELLS FARGO TRANSPORT LEASING CORPORATION

[CORPORATE SEAL]

By S/ THEODORE J. ROGENSKI  
Its SENIOR VICE PRESIDENT

ATTEST:

By S/ CRAIG P. ADRYAN  
Its VICE PRESIDENT

S/ CHARLES A. GREENBERG  
Secretary

PORTLAND GENERAL ELECTRIC COMPANY

[CORPORATE SEAL]

By *W. L. Harrison*  
Its Vice President

ATTEST:

*Walter A. Mark*  
ASST Secretary

STATE OF CALIFORNIA )  
 ) SS  
COUNTY OF SAN FRANCISCO )

On this 26 day of FEBRUARY, before me personally appeared THEODORE J. ROGENSKI and CRAIG P. ADRYAN, to me personally known, who being by me duly sworn, says that they are the SVP and VP, respectively, of WELLS FARGO TRANSPORT LEASING CORPORATION, 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 they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

S/ CHARLES A. GREENBERG  
Notary Public

[NOTARIAL SEAL]

My commission expires: 5-3-81

SEALED BY CHARLES A. GREENBERG

STATE OF OREGON )  
 ) SS  
COUNTY OF Multnomah )

On this 26<sup>th</sup> day of February, 1979, before me personally appeared K.L. Harrison, to me personally known, who being by me duly sworn, says that he is the Vice President of PORTLAND GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jean d. Homer  
Notary Public

[NOTARIAL SEAL]

My commission expires: 4-11-80

DESCRIPTION OF ITEMS OF EQUIPMENT

Manufacturer of Equipment: Whittaker Corporation (Berwick Forge and Fabricating Division)

Description and Mark and Number of Items of Equipment: 230 High Side Gondola Rotary Dump Railroad Cars Marked and Numbered PGEX 1 to PGEX 4, both inclusive, and PGEX 101 to PGEX 326, both inclusive

Base Purchase Price of Equipment: \$34,300 per Item

Maximum Aggregate Purchase Price of Equipment: \$7,900,000

Place of Delivery: Berwick, Pennsylvania

Outside Delivery Date: May 1, 1979

CERTIFICATE OF ACCEPTANCE  
UNDER EQUIPMENT LEASE

TO: Wells Fargo Transport Leasing Corporation (the "Lessor")

Whittaker Corporation (Berwick Forge and Fabricating Division)  
(the "Manufacturer")

I, a duly appointed and authorized representative of Portland General Electric Company (the "Lessee") under the Equipment Lease dated as of October 1, 1978 between the Lessor and the Lessee, do hereby certify that I have inspected, received, approved and accepted delivery under the Lease of the following Items of Equipment:

TYPE OF EQUIPMENT: High Side Gondola Rotary Dump  
Railroad Cars

PLACE ACCEPTED: Berwick, Pennsylvania

DATE ACCEPTED:

NUMBER OF UNITS:

MARKED AND NUMBERED:

I do further certify that the foregoing Items of Equipment are in good order and condition, and appear to conform to the specifications applicable thereto, that the Lessee has no knowledge of any defect in any of the foregoing Items of Equipment with respect to design, manufacture, condition or in any other respect, and that each Item has been labeled by means of a plate or a stencil printed in contrasting colors upon each side of the Item in letters not less than one inch in height as follows:

"Leased from a Bank or Trust Company,  
as Owner-Trustee and Subject to a Security  
Interest Recorded with the I.C.C."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Manufacturer for any warranties it has made with respect to the Equipment.

Dated: \_\_\_\_\_, 19\_\_

\_\_\_\_\_  
Inspector and Authorized  
Representative of the Lessee

SCHEDULE B  
(to Equipment Lease)

SCHEDULE OF CASUALTY VALUE

The Casualty Value for an Item of Equipment payable on the Term Lease Commencement Date or any Fixed Rental payment date thereafter shall mean an amount equal to the percent of the Purchase Price of such Item set forth opposite such date in the following schedule:

<u>Term Lease Commencement Date or Number of Fixed Rental Payment Date on which Casualty Value is Paid</u>	<u>Percentage of Purchase Price Payable as Casualty Value</u>
Term Lease Commencement Date	101.50
1	103.00
2	104.07
3	103.70
4	103.16
5	103.04
6	95.96
7	95.47
8	94.82
9	94.00
10	86.22
11	85.07
12	83.77
13	82.32
14	73.95
15	72.23
16	70.39
17	68.43
18	66.36
19	64.20
20	61.94
21	59.62
22	57.21
23	54.77
24	52.26
25	49.74
26	47.17
27	44.61
28	42.02
29	39.43
30	36.83
31	34.25
32	31.56
33	28.79
34	25.92
35	23.01
36 and thereafter during any storage period	20.00

SCHEDULE OF TERMINATION VALUE

The Termination Value for an Item of Equipment payable on the twentieth Fixed Rental payment date or any Fixed Rental payment date thereafter shall mean an amount equal to the percent of the Purchase Price of such Item set forth opposite such date in the following schedule:

<u>Fixed Rental Payment Date on which Termination Value is Paid</u>	<u>Percentage of Purchase Price Payable as Termination Value</u>
20	61.94
21	59.62
22	57.21
23	54.77
24	52.26
25	49.74
26	47.17
27	44.61
28	42.02
29	39.43
30	36.83
31	34.25
32	31.56
33	28.79
34	25.92
35	23.01
36 and thereafter during any storage period	20.00

SCHEDULE D  
(to Equipment Lease)