RECORDATION NO. 9401-C Filed & Recorded
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INTERSTATE COMMERCE COMMISSION

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CRAVATH, SWAINE & MOORE

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INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 9401-A Filed & Recorded
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RECORDATION NO. 9401-B Filed & Recorded
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RECORDATION NO. 9401-E Filed & Recorded
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INTERSTATE COMMERCE COMMISSION

Date MAY 25 1978
Fee $ 50

ICC Washington, D. C.

May 22, 1978

(WHITE COPIES)

Chicago, Rock Island and Pacific Railroad Company
Lease Financing Dated as of May 1, 1978
9.25% Conditional Sale Indebtedness Due 1994
ITT Industrial Credit Company, Owner

Dear Mr. Oswald:

Pursuant to Section 20c of the Interstate Commerce Act and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Great American Management Services, Inc. for filing and recordation counterparts of the following documents:

1(a) Conditional Sale Agreement dated as of May 1, 1978, between First Security State Bank, as Trustee, and Thrall Car Manufacturing Company;

(b) Agreement and Assignment dated as of May 1, 1978, between Thrall Car Manufacturing Company and First Security Bank of Utah, N.A.

2(a) Lease of Equipment dated as of May 1, 1978, between Great American Management Services, Inc. and First Security State Bank, as Trustee;

(b) Assignment of Lease, Reassignment of Sublease,

RECEIVED
MAY 25 1978
CERTIFICATION UNIT

Assignment of Surety Bond and Agreement dated as of May 1, 1978, between First Security State Bank, as Trustee, and First Security Bank of Utah, N.A., as Agent;

3(a) Sublease of Equipment dated as of May 1, 1978, between William M. Gibbons, Trustee of the property of Chicago, Rock Island and Pacific Railroad Company and Great American Management Services, Inc.; and

(b) Assignment of Sublease and Agreement dated as of May 1, 1978, between Great American Management Services, Inc. and First Security State Bank, as Trustee.

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

(1) Vendor-Assignee-Agent:

First Security Bank of Utah, N.A.
79 South Main Street
Salt Lake City, Utah 84111

(2) Trustee-Owner-Trustee-Lessor:

First Security Bank of Utah
79 South Main Street
Salt Lake City, Utah 84111

(3) Builder-Vendor:

Thrall Car Manufacturing Company
26th and State Streets
Chicago Heights, Illinois 60411

(4) Lessee-Sublessor:

Great American Management Services, Inc.
c/o Thayer, Ringoen & MacDonald
50 California Street (Suite 2800)
San Francisco, California 94111

(5) Railroad-Sublessee-Debtor:

Chicago, Rock Island and Pacific
Railroad Company
322 South Michigan Avenue
Chicago, Illinois 60604

(6) Surety:

Great American Insurance Company
580 Walnut Street
Cincinnati, Ohio 45202

Please file and record the documents referred to in this letter and cross-index them under the names of the Vendor-Assignee-Agent, the Trustee-Owner-Trustee-Lessor, the Builder-Vendor, the Lessee-Sublessor, the Railroad-Sublessee-Debtor and the Surety.

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

Fifty 100 ton Gondola Cars, bearing identifying numbers ROCK 400000 through ROCK 400049.

There is also enclosed a check for $150 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document), the Lease of Equipment, and related Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement (together constituting one document) and the Sublease and related Assignment of Sublease and Agreement (together constituting one document).

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

Very truly yours,

Paul W. Voegeli
As Agent for Great American
Management Services, Inc.

Robert L. Oswald, Esq., Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

BY HAND

RECORDATION NO. 9401 Filed & Recorded

MAY 25 1978 -1 25 PM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of May 1, 1978

between

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely as Owner-Trustee for
ITT INDUSTRIAL CREDIT COMPANY

and

THRALL CAR MANUFACTURING COMPANY,

as Builder,

CONDITIONAL SALE AGREEMENT dated as of May 1, 1978, between THRALL CAR MANUFACTURING COMPANY (hereinafter called the Builder or the Vendor, as the context may require, as more particularly set forth in Article 1 hereof), and FIRST SECURITY STATE BANK, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with ITT INDUSTRIAL CREDIT COMPANY (hereinafter called the Owner).

The Builder agrees to construct, sell and deliver to the Owner-Trustee, and the Owner-Trustee agrees to purchase, the railroad equipment described in Annex B hereto (hereinafter called the Equipment).

The Owner-Trustee is entering into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) with Great American Management Services, Inc. (hereinafter called Great American or the Lessee), in substantially the form annexed as Annex C hereto.

Great American is entering into a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease) with William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company (hereinafter called the Railroad) in substantially the form annexed to the Lease as Appendix A thereto, and Great American will assign the Sublease to the Owner-Trustee as security for payment and performance of its obligations under the Lease pursuant to an Assignment of Sublease and Agreement dated as of the date hereof (hereinafter called the Sublease Assignment) substantially in the form of Appendix B to the Lease and the Railroad shall consent thereto pursuant to a Consent and Agreement in the form attached thereto (hereinafter called the Sublease Assignment Consent).

To assure payment of certain of the obligations of Great American under the Lease, the Lessee as principal has agreed to deliver to the Owner-Trustee, as obligee, a Surety Bond (hereinafter called the Bond) issued by Great American Insurance Company, as Surety (hereinafter called the Surety), a form of Assumption and Assignment (hereinafter called the Assumption Agreement) to be entered into between

the Surety (or its substitute permitted under the Bond) and the Owner-Trustee, if the Surety so elects, being attached as an exhibit thereto.

First Security Bank of Utah, N.A. (hereinafter called the Assignee or the Vendor) is acting as agent for an investor or investors (hereinafter called the Investors) pursuant to the Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Owner-Trustee, the Lessee, the Owner, the Railroad and the party or parties named in Schedule A thereto.

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

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

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

In case of such assignment, the Owner-Trustee will assign to the Vendor, as security for the payment and performance of all the Owner-Trustee's obligations hereunder, all right, title and interest of the Owner-Trustee in and to the Lease, the Sublease, the Bond and, if executed and delivered, the Assumption Agreement, pursuant to an Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement substantially in the form of Annex D hereto (hereinafter

called the Lease Assignment) and each of the Lessee, the Railroad and the Surety shall consent thereto pursuant to a Consent and Agreement in substantially the form attached to Annex D hereto (hereinafter collectively called the Consents).

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the Equipment at its plant or plants set forth in Annex B hereto, and will sell and deliver to the Owner-Trustee, and the Owner-Trustee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), such Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing among the Builder, the Owner-Trustee and the Railroad (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as then being applicable to each such unit of Equipment, and each such unit will be new railroad equipment when delivered to the Owner-Trustee.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of the Equipment to the Owner-Trustee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Owner-Trustee), freight, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until the filings and recordings referred to in Article 18 hereof have been made; and provided, further, that the Builder shall have no obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clause (e) of Article 15 hereof or the occurrence of any event of default (as described in Article 15 hereof), or any event which with notice or lapse of time or both would constitute such an event of default. The Builder agrees not to deliver any unit of Equipment hereunder (a) following receipt of written notice from the Owner-Trustee or the Assignee of the commencement of any such proceedings or the occurrence of any such event, as aforesaid, and (b) until it receives notice from the Assignee and the Owner-Trustee, respectively, that the conditions contained in Paragraphs 7 and 8, respectively, of the Participation Agreement have been met.

Notwithstanding the next succeeding paragraph, any Equipment not delivered as a result of the first paragraph of this Article 3, and any Equipment not delivered and accepted hereunder on or prior to May 31, 1978, shall be excluded from this Agreement; and the Owner-Trustee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom.

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

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Owner-Trustee (who may be employees of the Railroad) and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder will inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Owner-Trustee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Owner-Trustee (who may be an employee of the Railroad) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Owner-Trustee and are marked in accordance with Article 9 hereof; provided, however, that the Builder shall not thereby be relieved of its warranties contained or referred to in Article 13 hereof.

On delivery and acceptance of each such unit of Equipment at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit;

provided, however, that the Builder shall not thereby be relieved of its warranties contained or referred to in Article 13 hereof.

Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the delivery to and acceptance by or on behalf of the Owner-Trustee of any unit of Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof shall be ineffective, ab initio, to create in or transfer to the Owner-Trustee any legal or beneficial right or interest in such unit or (except as provided in the first paragraph of Article 4 hereof) to impose on the Owner-Trustee any liability, obligation or responsibility with respect thereto.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder, the Owner-Trustee, the Railroad and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in such Builder's invoice or invoices delivered to the Owner-Trustee (which shall include any applicable freight charges) and, if the Purchase Price is other than the base price or prices set forth in Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Railroad, the Lessee and the Owner-Trustee (such invoice or invoices being hereinafter called the Invoices). If on any Closing Date (as hereinafter defined in this Article) the aggregate Purchase Price of Equipment for which settlement is then being made would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as the Owner-Trustee may at its option agree to prior to delivery of any unit or units of Equipment that, but for such agreement, would be excluded from this Agreement), the Builder (and any assignee of the Builder) and the Owner-Trustee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Owner-Trustee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as aforesaid) and the Owner-Trustee shall take such other steps, including the execution of instruments of transfer, as may be reasonably requested by the Builder for the purpose of acknowledging and perfecting the interest of the Builder

in any unit of Equipment so excluded from this Agreement, and the Owner-Trustee shall have no further obligation or liability in respect of units so excluded.

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Owner-Trustee as is provided in Item 2 of Annex A hereto (each such group being hereinafter sometimes called a Group). The term "Closing Date" with respect to any Group shall mean such date (not later than May 31, 1978), occurring not more than ten business days following presentation by the Builder to the Owner-Trustee of the Invoices and of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Railroad, as shall be fixed by the Railroad by written notice delivered to the Owner-Trustee, Great American and the Assignee at least six business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Salt Lake City, Utah, are authorized or obligated to remain closed.

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

(a) on the Closing Date (i) an amount equal to 30.172620% of the aggregate Purchase Price of such Group plus (ii) the amount, if any, by which (x) 69.827380% of the Purchase Price of the Equipment for which settlement has theretofore and is then being made, as set forth in the Invoice or Invoices therefor (said invoiced prices being herein called the Invoiced Purchase Prices), exceeds (y) the Maximum Conditional Sale Indebtedness specified in Item 5 of Annex A and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this clause (ii); and

(b) in 64 quarterly installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (herein called the Conditional Sale Indebtedness) shall be payable on each March 29, June 29, September 29 and December 29, commencing March 29, 1979, to and including December 29, 1994 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.25% per annum. Such interest shall be payable, to the extent accrued, on December 29, 1978, and on each Payment Date thereafter. The installments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto, and the aggregate of such installments of principal will completely amortize the remaining Conditional Sale Indebtedness. The Owner-Trustee will furnish to the Vendor and the Lessee promptly after the Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months, except that interest payable on December 29, 1978, shall be computed on an actual elapsed day and 360-day year basis.

The Owner-Trustee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 10.25% per annum.

All payments provided for in this Agreement shall be made in immediately available funds in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 hereof, the Owner-Trustee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

The obligation of the Owner-Trustee to make payment to the Builder is subject to the furnishing by the Builder to

the Owner-Trustee of the documents required to be furnished by the Builder pursuant to Section 4 of the Assignment in respect of the Group.

Notwithstanding any other provisions of this Agreement, including, without limitation, Articles 15 and 16 hereof, it is understood and agreed by the Vendor that the liability of the Owner-Trustee for all payments to be made by it under and pursuant to this Agreement and for all performance obligations (other than the payments called for by subparagraph (a) of the third paragraph of this Article and as provided in the proviso to the last paragraph of Article 12 hereof), shall not exceed an amount equal to, and shall be payable only out of, the income and proceeds from the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (i) if an event of default shall have occurred under Article 15 hereof and while it shall be continuing so much of the following amounts as are indefeasibly received by the Owner-Trustee (or any assignee of the Owner-Trustee) at any time after any event of default and during the continuance thereof: (a) all amounts of rental and all amounts in respect of Casualty Occurrences payable pursuant to the Lease, the Sublease or any other sublease permitted under the Lease, (b) any and all other payments or proceeds so received pursuant to the Lease, the Sublease or any other sublease permitted under the Lease, or for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (c) any and all payments or proceeds received pursuant to the Bond or the Assumption Agreement and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a), (b) and (c) or otherwise payable to the Owner-Trustee pursuant to the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, as are indefeasibly received by the Owner-Trustee or any assignee of the Owner-Trustee and as shall equal the portion of the Conditional Sale Indebtedness and/or interest thereon due and payable by the Owner-Trustee on the date such amounts so received were required to be paid pursuant to the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, or as shall equal any other payments (including payments in respect of Casualty Occurrences as defined in Article 7 hereof) then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a), (b) and (c) which were received by the Owner-Trustee or any

assignee of the Owner-Trustee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness and/or interest thereon due and payable by the Owner-Trustee on the date on which amounts with respect thereto received by the Owner-Trustee or any assignee of the Owner-Trustee were required to be paid pursuant to the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, or which exceeded any other payments including payments in respect of Casualty Occurrences due and payable under this Agreement at the time such amounts were payable under the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement. The Vendor agrees that if it obtains a judgment against the Owner-Trustee for an amount in excess of the amounts payable by the Owner-Trustee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount and it will not bring suit against the Owner-Trustee for any sums in addition to the amounts payable by the Owner-Trustee pursuant to said limitations (or obtain a judgment, order or decree against the Owner-Trustee for any relief other than the payment of money) except as may be required by applicable rules of procedure to enforce against the Equipment, the Lessee, the Railroad, any other sublessee (as defined in the Lease), the Surety (including its substitute permitted under the Bond) and the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, rather than against the Owner-Trustee personally, by appropriate proceedings against the Owner-Trustee at law or in equity or otherwise, the obligation to make the payments to be made pursuant to this Agreement or any other payments or performance obligations due to the Vendor under this Agreement. Nothing contained herein limiting the liability of the Owner-Trustee shall derogate from the right of the Vendor to proceed against the Equipment or the Lessee, the Railroad, any other sublessee permitted under the Lease, the Surety (including its substitute permitted under the Bond), the Lease, the Sublease, any other sublease permitted under the Lease, the Bond, the Assumption Agreement or the Consents for the full unpaid Purchase Price of the Equipment and interest thereon and any and all other payments and obligations under this Agreement.

ARTICLE 5. Security Interest in the Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Owner-Trustee shall have made all

its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Owner-Trustee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Owner-Trustee, the Lessee, the Railroad, any other sublessee or the Surety (including its substitute permitted under the Bond) as provided in this Agreement, the Lease, the Sublease, any other sublease permitted under the Lease, the Bond and the Assumption Agreement; it being understood that, subject thereto, ownership of the Equipment (upon delivery and acceptance thereof) shall pass to and remain in the Owner-Trustee. Accordingly, after such time as all payments due or to become due hereunder shall have been completed and fully made to or for the account of the Vendor, and the Owner-Trustee shall have performed all its other obligations hereunder (without regard to the provisions of the last paragraph of Article 4 hereof or Article 21 hereof), (a) such payments shall be deemed to represent the discharge in full of the Vendor's security interest in the Equipment at such time, (b) any moneys remaining in the hands of the Vendor after providing for all outstanding amounts due and payable hereunder and as provided in the first paragraph of Paragraph 10 of the Participation Agreement shall be paid to the Owner-Trustee, and (c) the Vendor shall execute for recording in public offices such instrument or instruments in writing as reasonably shall be requested by the Owner-Trustee or the Lessee in order to discharge of record the security interest of the Vendor in, and to make clear upon public records the Owner-Trustee's full title to, such units of the Equipment under the laws of any jurisdiction; provided, however, that until that time a security interest in the Equipment shall be and remain in the Vendor, notwithstanding the possession and use thereof by the Owner-Trustee, the Lessee, the Railroad, any other sublessee permitted under the Lease or the Surety (including its substitute permitted under the Bond) pursuant to the terms of this Agreement, the Lease, the Sublease, any other sublease permitted under the Lease, the Bond and the Assumption Agreement.

The Owner-Trustee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instru-

ments or to file such certificates within a reasonable time after written demand by the Owner-Trustee.

The term "Equipment" as used in this Agreement shall not include any special devices or assemblies at any time attached or affixed to any unit of Equipment, the cost or purchase price of which is not included in the Purchase Price of the Equipment and the title to which is in a person other than the Owner-Trustee.

ARTICLE 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Owner-Trustee agrees to pay, and to indemnify and hold the Vendor, the Builder, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under this Agreement and the Participation Agreement harmless from, all taxes (income, gross receipts, franchise, sales, use, property [real or personal, tangible or intangible], stamp and minimum [imposed under Section 56 of the Internal Revenue Code of 1954, as amended] taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed on the Owner-Trustee, the Owner, the Vendor, the Investors, the Builder, the Railroad or the Lessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under this Agreement and the Participation Agreement, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any unit of the Equipment or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this Agreement, the Lease, the Sublease, the Consents, the Sublease Assignment, the Sublease Assignment Consent, the Lease Assignment, the Participation Agreement (including the certificates of interest and the issuance thereof), the Trust Agreement, the Bond, the Assumption Agreement or the Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to the Equipment or the property held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Security Document and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes) excluding, however:

(i) Taxes of the United States or of any state or local government or governmental subdivision or authority thereof and (if and to the extent that any person indemnified hereunder is entitled to a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Vendor, Builder or the Investors, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Agreement, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its world-wide income without regard to the transactions contemplated by this Agreement shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed on or measured by any agency or trustee's fees received by the Vendor; and (iii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Vendor or any transfer or disposition of this Agreement resulting from bankruptcy or other proceedings for the relief of creditors whether voluntary or involuntary in which the Vendor is debtor; provided, however, that the Owner-Trustee shall not be required to pay any Taxes during the period the Owner-Trustee or any indemnified party may be contesting the same in the manner provided in the third paragraph of this Article 6.

The amount which the Owner-Trustee shall be required to pay with respect to any Taxes indemnified against pursuant to this § 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

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

proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Owner-Trustee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Owner-Trustee in connection with any such contest or an amount representing interest thereon, such indemnified party shall pay the Owner-Trustee the amount of such refund or interest net of expenses; but only if no event of default set forth in Article 15 hereof and no event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing.

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

All of the obligations of the Owner-Trustee under this Article 6 shall survive and continue, notwithstanding payment in full of all amounts due under this Agreement, but only with respect to periods included in the term of this Agreement. Payments due from the Owner-Trustee under this Article 6 shall be made directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority.

The obligations of the Owner-Trustee under this Article 6 are subject to the limitations contained in the last paragraph of Article 4 hereof and in Article 21 hereof.

The Owner-Trustee shall furnish or cause to be furnished promptly, upon request, such information and data as are normally available to the Owner-Trustee and which the

Vendor reasonably may require to permit compliance with the requirements of any taxing authorities.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Owner-Trustee shall, at its own cost and expense, maintain and keep each unit of the Equipment (including any parts installed on or replacements made to any unit and considered an accession thereto as provided in § 9 of the Lease) in good operating order, repair and condition.

In the event that any unit of the Equipment shall be or become worn out, lost, stolen, destroyed, irreparably damaged or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession thereof by the Lessee, the Railroad, any other sublessee permitted under the Lease for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Agreement (any of such occurrences being herein called Casualty Occurrences) during the term of this Agreement, the Owner-Trustee shall, promptly after it shall have received notice from the Lessee thereof or otherwise been informed that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the Payment Date next succeeding such notice from the Lessee thereof (or, in the event such Payment Date will occur within 15 days after delivery of such notice from the Lessee to the Owner-Trustee, on the following Payment Date), the Owner-Trustee shall, subject to the limitations contained in the last paragraph of Article 4 hereof, pay to the Vendor an amount equal to the Fair Value, as hereinafter defined, of such unit suffering a Casualty Occurrence as of the date of such payment. On the date of any such payment, the Owner-Trustee shall file, or cause to be filed, with the Vendor a certificate setting forth the Fair Value of such unit and the method of determination thereof. In the event of the requisition for use by the United States Government of any unit of Equipment, unless such requisition shall at the time of such requisition be scheduled to extend beyond the then remaining term of this Agreement, all of the Owner-Trustee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

Upon payment by the Owner-Trustee to the Vendor of the Fair Value of any unit of the Equipment having suffered a Casualty Occurrence, the security interest of the Vendor

in such unit shall terminate without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Owner-Trustee, will execute and deliver, to the Owner-Trustee, at the expense of the Owner-Trustee, an appropriate instrument confirming such termination to the Owner-Trustee, in recordable form, in order that the Owner-Trustee may make clear upon the public records the full title of the Owner-Trustee to such unit.

Any insurance proceeds or condemnation payments received and retained by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Owner-Trustee to the Vendor in respect of Casualty Occurrences pursuant to this Article. If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence either after the Owner-Trustee shall have made payments pursuant to this Article without deduction for such insurance proceeds or condemnation payments, or in excess of the Fair Value (after taking into account payments by the Owner-Trustee under this Article) of such units, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Owner-Trustee. All insurance proceeds or condemnation payments or such excess received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Owner-Trustee upon proof satisfactory to the Vendor that the damage to such unit in respect of which such proceeds were paid has been fully repaired.

Any money paid to the Vendor pursuant to this Article shall be applied (after the payment of the interest and principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each installment, the Conditional Sale Indebtedness and the Owner-Trustee will promptly furnish to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as they may request. In the event of the requisition for use by the United States Government of any unit of the Equipment not constituting a Casualty Occurrence, all of the Owner-Trustee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

The "Fair Value" of any unit of Equipment on any date shall be deemed to be an amount computed by multiplying

the unpaid principal amount of the Conditional Sale Indebtedness outstanding on such date (after giving effect to any payment in respect thereof due on such date pursuant to Article 4 hereof) by a fraction of which the numerator shall be the Purchase Price of such unit and the denominator shall be the Purchase Price of all units (including such unit) subject to this Agreement on such date.

The Owner-Trustee will at all times prior to the payment of the Conditional Sale Indebtedness, together with interest thereon and all other payments required hereby, maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Equipment at the time subject hereto, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against risks customarily insured against by the Railroad or any other user of the Equipment on similar equipment owned by it. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee, the Lessee, the Railroad or any other sublessee permitted under the Lease as their respective interests may appear.

The Owner-Trustee will at all times prior to the payment of the Conditional Sale Indebtedness, together with interest thereon and all other payments required hereby, at its own expense, carry and maintain or cause to be carried and maintained public liability insurance, naming the Vendor as additional named insured as its interests may appear, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against risks customarily insured against by the Railroad or any other user of the Equipment in respect of similar equipment owned by it.

ARTICLE 8. Reports and Inspections. The Owner-Trustee covenants and agrees to furnish to the Vendor, on or before April 1 in each year, commencing with the calendar year 1979, an accurate statement as of the preceding December 31 (i) showing the amount, description and numbers of all of the units of Equipment then subject hereto and the amount, description and numbers of all such units of Equipment that may have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such certificate) or, to the knowledge of the Owner-Trustee, have been withdrawn from use pending repair (other than normal running repairs), and such other information regarding the condition and state of repair

of such units of Equipment as the Vendor may reasonably request and (ii) stating that in the case of all such units of Equipment repainted or repaired during the period covered thereby the marks required by Article 9 hereof have been preserved or replaced. The Vendor, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect the records of the Owner-Trustee with respect to the Equipment, and the Owner-Trustee covenants in that event to furnish to the Vendor all reasonable facilities for the making of such inspection.

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

ARTICLE 9. Marking of Equipment. The Owner-Trustee agrees that it will cause each unit of the Equipment to be kept plainly, distinctly, permanently and conspicuously marked on each side of such unit, in letters not less than one inch in height, the following words:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c"

or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the security interest of the Vendor in such unit and the rights of the Vendor under this Agreement.

The Owner-Trustee will not place or permit any unit of the Equipment to be placed in operation or exercise any control or dominion over the same until such words have been so marked on both sides thereof and will replace or cause to be replaced promptly any such words which may be removed, defaced, obliterated or destroyed. The Owner-Trustee shall not change, or permit to be changed, the indentifying number of any unit of the Equipment unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and duly filed, recorded and deposited by the Owner-Trustee in all public offices where this Agreement shall have been filed, recorded and deposited and (ii) the Owner-Trustee shall have furnished the Vendor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's interest in such units of Equipment and no filing, recording, deposit or giving of

notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor in such Units.

Except as above provided, the Owner-Trustee will not allow the name of any person, association or corporation to be placed on the units of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Owner-Trustee may permit the Equipment to be lettered with the names, trademarks, initials or other insignia customarily used, so long as the Sublease shall remain in effect, by the Railroad, and, thereafter, so long as a sublease with a sublessee of the Equipment permitted by § 12 of the Lease shall remain in effect, by such other sublessee, or their respective affiliates, on railroad equipment used by them of the same or a similar type for convenience of identification of their respective rights to use the Equipment under the Lease, the Sublease or such other sublease.

ARTICLE 10. Compliance with Laws and Rules. During the term of this Agreement, the Owner-Trustee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement, addition or modification of or to any part of any unit of the Equipment, the Owner-Trustee will, or will cause the Lessee to, conform therewith at no expense to the Vendor; provided, however, that the Owner-Trustee or the Lessee may, in good faith, contest or cause to be contested the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Vendor, materially adversely affect the property or rights of the Vendor under this Agreement.

The obligations of the Owner-Trustee under this Section are subject to the limitations contained in Article

21 hereof.

ARTICLE 11. Possession of Equipment. So long as no event of default has occurred and is continuing hereunder, the Owner-Trustee shall be entitled to the possession and use of the Equipment and also to enter into the Lease, and to permit the use of the Equipment as provided in the Lease. The Owner-Trustee hereby agrees that the Lease, the Sublease and any other sublease of any of the Equipment and the rights of the Owner-Trustee to receive rentals and other payments due and to become due thereunder, shall be subject and subordinate to this Agreement and to the rights of the Vendor hereunder and under the Consents.

Except as permitted by the Trust Agreement, the Owner-Trustee will not sell, assign or transfer its rights under this Agreement or, except as provided in this Article 11, transfer the right to possession of any unit of the Equipment. The Owner-Trustee will not amend or consent to any change in the Trust Agreement which might adversely affect the rights of the Vendor without the prior written consent of the Vendor.

ARTICLE 12. Discharge of Liens. The Owner-Trustee will pay or discharge any and all sums claimed by any party from, through or under the Owner-Trustee, the Owner or their successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the "income and proceeds from the Equipment" (as defined in Article 4 hereof), and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, materially adversely affect the interest of the Vendor in the Equipment, its interest in said income and proceeds from the Equipment, or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's

or other like liens arising in the ordinary course of business and, in each case, not delinquent.

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof; provided, however, that the Owner-Trustee will pay or discharge any and all claims, liens, charges or security interests claimed by any party from, through or under the Owner-Trustee or the Owner or the successors or assigns of either of them, not arising out of the transactions contemplated hereby (but including any tax liens arising out of the receipt of rentals and other payments under the Lease, the Sublease or the Participation Agreement), but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not materially adversely affect the security interest of the Vendor in the Equipment, its interest in said income and proceeds from the Equipment, or otherwise under this Agreement.

ARTICLE 13. Indemnity; Builder's Representations and Warranties. The Owner-Trustee shall pay, and shall protect, indemnify and hold the Vendor, the Investors and the Builder, any assignee thereof, and their respective successors, assigns, principals, agents and servants (hereinafter called Indemnified Persons), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation reasonable attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Agreement or the Equipment, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any unit of Equipment or portion thereof; (ii) any latent and other defects whether or not discoverable by the Owner-Trustee or any Indemnified Person; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or by statute imposed; (v) any injury to or the death of any person or any damage to or

loss of property on or near the Equipment or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Equipment or of any other equipment in connection with the Equipment (whether owned or under the control of the Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder), or alleged violation, of any provision of this Agreement or any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Equipment or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; or (vii) any claim arising out of the Vendor's holding of a security interest under this Agreement or the Lease Assignment; <u>except</u>, <u>however</u>, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant hereunder by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A hereto. The Owner-Trustee shall be obligated under this Article, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Owner-Trustee under this Article without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Owner-Trustee may and, upon such Indemnified Person's reasonable request will, at the Owner-Trustee's expense, resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Owner-Trustee and approved by such Indemnified Person and, in the event of any failure by the Owner-Trustee to do so, the Owner-Trustee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Owner-Trustee is required to make any payment under this Article, the Owner-Trustee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving

credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes), shall be equal to the amount of such payment. The Vendor and the Owner-Trustee each agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article by the Owner-Trustee, and provided that no event of default set forth in Article 15 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, the Owner-Trustee shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to the Lease and the Railroad pursuant to the Sublease shall be paid over to the Owner-Trustee to the extent necessary to reimburse the Owner-Trustee for indemnification payments previously made in respect of such matter.

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

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

The obligations of the Owner-Trustee under this Article 13 are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

The Builder represents and warrants to the Owner-Trustee and the Assignee that, at the time of delivery and acceptance of each unit of the Equipment under this Agree-

ment, such Builder will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights created by this Agreement, the Assignment, the Lease and the Sublease.

The Builder represents that it is not entering into this Agreement, or entering into any assignment of this Agreement, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

The agreement of the parties relating to the Builder's warranty of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Item 3 of Annex A hereto.

ARTICLE 14. Assignments. The Owner-Trustee will not (a) transfer the right to possession of any unit of the Equipment, except as provided in Article 11 hereof, or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement without the prior written consent of the Vendor, except as provided in the Trust Agreement.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Owner-Trustee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities contained or referred to in Article 13 hereof, or relieve the Owner-Trustee of its respective obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Owner-Trustee, the Lessee and the Surety, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title

and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Owner-Trustee of the notification of any such assignment, all payments thereafter to be made by the Owner-Trustee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

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

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Owner-Trustee shall default in the payment of the principal of or interest on the Conditional Sale Indebtedness or payment in respect of a Casualty Occurrence under Article 7 hereof, and such default shall continue until 5 business days after notice has been received by the Surety of the election to proceed under Paragraph 1(b) of the Bond, without regard to any limitation of liability contained in Article 4 or 21 hereof, or

(b) the Owner-Trustee shall, without regard to any limitation of liability contained in Article 4 or 21 hereof, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants of this Agreement or the Lease Assignment on its part to be kept and performed (except as provided in clause (d) of this Article), or to make provision satisfactory to the Vendor for such compliance, or

(c) the Lessee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any term, covenant, agreement or provision of the Participation Agreement made expresssly for the benefit of the Assignee (or the Investors), on its part to be kept or performed, and the Owner-Trustee shall not make provision satisfactory to the Assignee for such compliance, or

(d) the Owner-Trustee, except as herein authorized or contemplated, shall make or suffer any unauthorized transfer or sublease (including, for the purpose of this clause, contracts for the use thereof) of any unit of the Equipment and shall fail or refuse either to cause such transfer or sublease to be canceled by agreement of all parties having any interest therein or recover possession of such Equipment, as the case may be, within 30 days after the Vendor shall have demanded in writing such cancelation or recovery of possession, or within said 30 days to deposit with the Vendor a sum in cash equal to the Fair Value (as defined in Article 7 hereof) of such unit of Equipment (any sum so deposited to be returned to the Owner-Trustee upon the cancelation of such transfer or sublease or the recovery of possession by the Owner-Trustee of such Equipment), or

(e) either the Owner or the Surety shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or any of its properties or assets, (ii) be unable, or admit in writing its inability, to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated a bankrupt or insolvent or (v) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy,

reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or if corporate action shall be taken by it for the purpose of effecting any of the foregoing; or any proceeding shall be commenced against either the Owner or the Surety for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations hereunder or under the Bond, the Lease, the Lease Assignment or the Participation Agreement of the Surety or the Owner, as the case may be) and such proceedings shall continue unstayed and in effect for any period of 60 days, or

(f) an Event of Default (as defined therein) shall have occurred under the Lease and either (i) the event causing such Event of Default shall not have been cured within five business days after notice has been received by the Surety of the election to proceed under Paragraph 1(b) of the Bond or (ii) the Assumption Agreement shall not have been executed and delivered by the Owner-Trustee and the Surety (or its permitted substitute under the Bond), or

(g) the Bond shall for any reason no longer be effective and enforceable, or

(h) if the Assumption Agreement shall have been executed and delivered by the Owner-Trustee and the Surety (or its permitted substitute under the Bond), an Event of Default shall have occurred under the Lease, as assumed, or under any lease entered into pursuant to the Assumption Agreement,

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Owner-Trustee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) cause the Lease and/or the Sublease or any other sublease immediately upon such notice to terminate (and the Owner-Trustee acknowledges the right of the Vendor to terminate the Lease and/or the Sublease or any other sublease), but without affecting the indemnities which by the provisions of the Lease and the Sublease survive its or their termination and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebt-

edness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Owner-Trustee, subject to the provisions of Articles 4 and 21 hereof, wherever situated. The Owner-Trustee shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time would constitute, an event of default under this Agreement.

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

If an event of default shall have occurred and be continuing hereunder for at least 30 days and a Declaration of Default has not been made by the Vendor, the Owner-Trustee may prepay the entire unpaid Conditional Sale Indebtedness together with the interest thereon then accrued and unpaid.

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Owner-Trustee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided,

and may remove the same from possession and use of the Owner-Trustee or any other person and for such purpose may enter upon the premises of the Owner-Trustee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Owner-Trustee, subject to all mandatory requirements of due process of law.

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

(a) forthwith and in the usual manner (including, but not by way of limitation, causing prompt telegraphic and written notice to be given to all railroads which may have possession of any unit or units of the Equipment to return the unit or units) cause the Equipment to be placed upon such storage tracks as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks without charge for insurance, rent or storage until the Equipment has been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the Equipment to be transported to such interchange point or points as directed by the Vendor upon any sale, lease or other disposal of all or any of the Equipment.

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

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may,

upon the notice and procedures as are hereinafter set forth, retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Owner-Trustee and the Lessee by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor shall elect to retain the Equipment and the Owner-Trustee does not object thereto in writing as described in the second proviso below, all the Owner-Trustee's rights in the Equipment shall thereupon terminate and all payments made by the Owner-Trustee or for its account may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Owner-Trustee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee; provided, further, that if the Owner-Trustee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon 30 days notice to the Owner-Trustee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Owner-Trustee, the Lessee, the Railroad, any other sublessee under the Lease or any other party claiming from, through or under the Owner-Trustee, the Lessee, the Railroad or any other sublessee under the

Lease, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Owner-Trustee should tender full payment of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor or the Owner-Trustee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Owner-Trustee and the Lessee shall be given written notice of such sale or the making of a contract for such sale not less than 30 days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Owner-Trustee to purchase or provide a purchaser, within 15 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Owner-Trustee or the Lessee (except to the extent of surplus money

received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor except that the Vendor shall not be deemed to have the power or remedy to retain the Equipment in satisfaction of the Conditional Sale Indebtedness except as specifically provided in this Article 16. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Owner-Trustee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Owner-Trustee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Owner-Trustee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Owner-Trustee shall, subject to the limitations of the last paragraph of Article 4 and Article 21 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, and, if the Owner-Trustee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof, be entitled to recover a judgment therefor against the Owner-Trustee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor,

such surplus shall be paid to the Owner-Trustee.

The Owner-Trustee will pay all reasonable compensation and expenses, including reasonable attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable compensation and expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations of the last paragraph of Article 4 and Article 21 hereof.

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Owner-Trustee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 18. Recording. Subject to the provisions of Article 21 hereof and the proviso contained in § 15 of the Lease and the Sublease, the Owner-Trustee will, (a) promptly after the execution and delivery of this Agreement, any assignments hereof, the Lease, the Sublease, the Sublease Assignment, the Lease Assignment and each supplement hereto and thereto, respectively, cause this Agreement, any assignments hereof, the Lease, the Sublease, the Sublease Assignment, the Lease Assignment and each such supplement to be

duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, (b) from time to time do and perform any other act and execute, acknowledge, deliver and file, register and record any and all further instruments required by law or reasonably requested by the Vendor for the purposes of proper protection of the security interest of the Vendor, (c) furnish an opinion or opinions of counsel of the Lessee in connection with such filing, registration, and recordation, and (d) promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 19. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

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

ARTICLE 20. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by registered mail, postage prepaid, at the following addresses:

(a) to the Owner-Trustee, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Division,

(b) to First Security Bank of Utah, N.A., as the Assignee or as the Vendor, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Division,

(c) to Thrall Car Manufacturing Company, as the Builder or as the Vendor, at its address specified in Item 1 of Annex A hereto,

(d) to the Owner, at 230 Hamm Building, 2nd Floor,

St. Paul, Minnesota 55102, Attention of Vice-President--Director of Leasing,

(e) to the Railroad, at 332 South Michigan Avenue, Chicago, Illinois 60604, Attention of Chief Financial Officer,

(f) to Great American, care of Thayer, Ringoen & Macdonald, at 50 California Street, San Francisco, California 94111, Attention of President,

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

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

ARTICLE 21. Immunities, Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Owner-Trustee under the second and eighth paragraphs of Article 16 and under Articles 3, 6, 7 (other than the second and third sentences of the second paragraph thereof), 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Owner-Trustee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. So long as any Conditional Sale Indebtedness remains outstanding, no waiver or amendment by the Owner-Trustee of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by First Security State Bank, or for the purpose or with the intention of binding the said bank personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank or the Owner on account of any representation, undertaking or agreement hereunder of said bank acting in its capacity as Owner-Trustee, or the Owner either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 hereof and subparagraph (b) of the third paragraph of Article 4 hereof; all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

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

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have exe-

cuted or caused this instrument to be executed all as of the date first above written.

THRALL CAR MANUFACTURING COMPANY,

by James L Arnell
Vice President

Attest:

Asst. Secretary

FIRST SECURITY STATE BANK,
Not in its individual capacity,
but solely as Owner-Trustee,

by

Authorized Oficer

Attest:

STATE OF Illinois ,)
) ss.:
COUNTY OF Cook ,)

On this 2nd day of May 1978, before me personally appeared Thomas A. Thrall , to me personally known, who being by me duly sworn, says that he is a Vice President of THRALL CAR MANUFACTURING COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Tina L Knez
Notary Public

[Notarial Seal]

My Commission Expires 1/11/81

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of May 1978, before me personally appeared , to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

SCHEDULE I

Allocation Schedule of Each $1,000,000.00 of Conditional Sale Indebtedness

DATE	PAYMENT	INTEREST PAYMENT	PRINCIPAL RECOVERY	PRINCIPAL BALANCE *
2/29/1978	**	**	0.00	1,000,000.00
3/29/1979	30,091.35	23,125.00	6,966.35	993,033.65
6/29/1979	30,091.35	22,963.90	7,127.45	985,906.20
9/29/1979	30,091.35	22,799.08	7,292.27	978,613.93
2/29/1979	30,091.35	22,630.45	7,460.90	971,153.03
3/29/1980	30,091.35	22,457.91	7,633.44	963,519.59
6/29/1980	30,091.35	22,281.39	7,809.96	955,709.63
9/29/1980	30,091.35	22,100.79	7,990.56	947,719.07
2/29/1980	30,091.35	21,916.00	8,175.35	939,543.72
3/29/1981	30,091.35	21,726.95	8,364.40	931,179.32
6/29/1981	30,091.35	21,533.52	8,557.83	922,621.49
9/29/1981	30,091.35	21,335.62	8,755.73	913,865.76
2/29/1981	30,091.35	21,133.15	8,958.20	904,907.56
3/29/1982	30,091.35	20,925.99	9,165.36	895,742.20
6/29/1982	30,091.35	20,714.04	9,377.31	886,364.89
9/29/1982	30,091.35	20,497.19	9,594.16	876,770.73
2/29/1982	30,091.35	20,275.32	9,816.03	866,954.70
3/29/1983	30,091.35	20,048.33	10,043.02	856,911.68
6/29/1983	30,091.35	19,816.08	10,275.27	846,636.41
9/29/1983	30,091.35	19,578.47	10,512.88	836,123.53
2/29/1983	30,091.35	19,335.36	10,755.99	825,367.54
3/29/1984	30,091.35	19,086.62	11,004.73	814,362.81
6/29/1984	30,091.35	18,832.14	11,259.21	803,103.60
9/29/1984	30,091.35	18,571.77	11,519.58	791,584.02
2/29/1984	30,091.35	18,305.38	11,785.97	779,798.05
3/29/1985	30,091.35	18,032.83	12,058.52	767,739.53
6/29/1985	30,091.35	17,753.98	12,337.37	755,402.16
9/29/1985	30,091.35	17,468.67	12,622.68	742,779.48
2/29/1985	30,091.35	17,176.78	12,914.57	729,864.91
3/29/1986	30,091.35	16,878.13	13,213.22	716,651.69
6/29/1986	30,091.35	16,572.57	13,518.78	703,132.91
9/29/1986	30,091.35	16,259.95	13,831.40	689,301.51
2/29/1986	30,091.35	15,940.10	14,151.25	675,150.26
3/29/1987	30,091.35	15,612.85	14,478.50	660,671.76
6/29/1987	30,091.35	15,278.03	14,813.32	645,858.44
9/29/1987	30,091.35	14,935.48	15,155.87	630,702.57
2/29/1987	30,091.35	14,585.00	15,506.35	615,196.22
3/29/1988	30,091.35	14,226.41	15,864.94	599,331.28
6/29/1988	30,091.35	13,859.54	16,231.81	583,099.47
9/29/1988	30,091.35	13,484.18	16,607.17	566,492.30
2/29/1988	30,091.35	13,100.13	16,991.22	549,501.08

* Principal column represents outstanding principal after payment.

** The interest payment for the first payment date will be calculated in accordance with Article 4 of the Conditional Sale Agreement.

DATE	PAYMENT	INTEREST PAYMENT	PRINCIPAL RECOVERY	PRINCIPAL BALANCE
3/29/1989	30,091.35	12,707.21	17,384.14	532,116.94
6/29/1989	30,091.35	12,305.20	17,786.15	514,330.79
9/29/1989	30,091.35	11,893.90	18,197.45	496,133.34
12/29/1989	30,091.35	11,473.08	18,618.27	477,515.07
3/29/1990	30,091.35	11,042.54	19,048.81	458,466.26
6/29/1990	30,091.35	10,602.03	19,489.32	438,976.94
9/29/1990	30,091.35	10,151.34	19,940.01	419,036.93
12/29/1990	30,091.35	9,690.23	20,401.12	398,635.81
3/29/1991	30,091.35	9,218.45	20,872.90	377,762.91
6/29/1991	30,091.35	8,735.77	21,355.58	356,407.33
9/29/1991	30,091.35	8,241.92	21,849.43	334,557.90
12/29/1991	30,091.35	7,736.65	22,354.70	312,203.20
3/29/1992	30,091.35	7,219.70	22,871.65	289,331.55
6/29/1992	30,091.35	6,690.79	23,400.56	265,930.99
9/29/1992	30,091.35	6,149.65	23,941.70	241,989.29
12/29/1992	30,091.35	5,596.00	24,495.35	217,493.94
3/29/1993	30,091.35	5,029.55	25,061.80	192,432.14
6/29/1993	30,091.35	4,449.99	25,641.36	166,790.78
9/29/1993	30,091.35	3,857.04	26,234.31	140,556.47
12/29/1993	30,091.35	3,250.37	26,840.98	113,715.49
3/29/1994	30,091.35	2,629.67	27,461.68	86,253.81
6/29/1994	30,091.35	1,994.62	28,096.73	58,157.08
9/29/1994	30,091.35	1,344.88	28,746.47	29,410.61
12/29/1994	30,090.73	680.12	29,410.61	0.00
	1,925,845.78	925,845.78	1,000,000.00	0.00

ANNEX A
to
Conditional Sale Agreement

Item 1: (a) Thrall Car Manufacturing Company, at 26th and State Streets, Chicago Heights, Illinois 60411 or Post Office Box 218, Chicago Heights, Illinois 60411.

Item 2: The Equipment hereto shall be settled for in not more than one Group.

Item 3: (a) The Builder warrants that its units of the Equipment have been built in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (hereinafter called the Agreement) and warrants that its Equipment is free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Railroad and not manufactured by the Builder) and workmanship or design (except as to designs specified by the Railroad and not developed or purported to be developed by the Builder) under normal use and service; the Builder's obligation under this paragraph being limited to making good at its plant (or at the option of the Builder at a place designated by the Builder and agreed upon by the Owner-Trustee or the Railroad) any part or parts of any unit which shall be returned to the Builder within one year after the delivery of such unit, or as to which written notice of such defect has been given by the Owner-Trustee or the Railroad to the Builder within one year after delivery of such unit and which part or parts are returned within 90 days after such notice to the Builder, provided that the Builder's examination shall disclose to its reasonable satisfaction such part or parts to have been thus defective. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE BUILDER, EXCEPT FOR ITS OBLIGATIONS UNDER ARTICLES 2, 3, 4 AND THE FIFTH AND SIXTH PARAGRAPHS OF

ARTICLE 13 OF THIS AGREEMENT. The Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid.

The Builder agrees that the Lessee as well as the Builder may to the extent permitted by law take and prosecute claims against vendors of specialties purchased by the Builder for incorporation in the Equipment and not warranted hereunder for the breach of any warranty by the vendors with respect to such specialties. The Builder and the Lessee, as a condition of its being a third party beneficiary hereof, each agree to notify the other prior to the assertion of any claim by them against any such vendors of specialties. If the Builder determines that it has no interest in any such claim asserted by the Lessee, the Builder agrees to assign to the Lessee, solely for the purpose of making and prosecuting any such claim, all of the rights which the Builder has against such vendor for the breach of warranty or other representation respecting the Equipment.

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

It is further understood and agreed that the word "design(s)" as used herein and in clause (b) hereof and the word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

(b) Except in case of designs, processes or combinations specified by the Railroad and not developed or purported to be developed by the Builder, and articles and materials specified by the Railroad and not manufactured by the Builder, the Builder agrees to indemnify, protect and hold harmless the Lessee, the Sublessee, the Owner-Trustee, the Investors, the Assignee and the Owner, from and against any and all liability, claims, demands, costs, charges and

expenses, including royalty payments and reasonable attorney's fees, in any manner imposed upon or accruing against the Lessee, the Owner-Trustee, the Assignee and the Owner because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process, combination, article or material infringing or claimed to infringe on any patent or other right. The Lessee, as a conditon to its being a third party beneficiary hereof, likewise will indemnify, protect and hold harmless the Builder from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and reasonable attorney's fees, in any manner imposed upon or accruing against the Builder because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process or combination specified by the Railroad and not developed or purported to be developed by such Builder, or article or material specified by the Railroad and not manufactured by the Builder, which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Lessee every claim, right and cause of action which the Builder has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article or material specified by the Railroad and used by the Builder in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and the Builder further agrees to execute and deliver to the Lessee all and every such further assurances as may be reasonably requested by the Lessee more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Lessee, as a condition to its being a third party beneficiary hereof, will give notice to the Builder of any claim known to the Lessee on the basis of which liability may be charged against the Builder hereunder and the Builder will give notice to the Lessee of any claim known to the Builder, on

the basis of which liability may be charged against the Lessee hereunder.

Item 4: The Maximum Purchase Price referred to in Article 4 of the Agreement is $1,388,066.

Item 5: The Maximum Conditional Sale Indebtedness referred to in Article 4 of the Agreement is $969,250.12.

ANNEX B
to
Conditional Sale Agreement

Type	Builder's Specification	Builder's Plant	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Road Numbers (Inclusive)	Estimated Time and Place of Delivery
100 ton, 52'6" Gondola Car	GN-100-52-221	Chicago Heights, Illinois	50	$27,761.32	$1,388,066	ROCK 400000 to ROCK 400049	May 24, 1978 Griffith, Indiana

Interstate Commerce Commission
Washington, D.C. 20423

5/25/78

OFFICE OF THE SECRETARY

Paul W.Voegeli
Cravath,Swaine & Moore
One Chase Manhattan Plaza
New York, N.Y. 10005

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 5/25/78 at 1:25pm, and assigned recordation number(s) 9401, 9401-A, 9401-B, 9401-C, 9401-D, 9401-E

Sincerely yours,

H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)