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COMMERCIAL COMMERCE COMMISSION

**SOUTHERN PACIFIC TRANSPORTATION
COMPANY EQUIPMENT TRUST**

Series 58

EQUIPMENT TRUST AGREEMENT

Dated as of July 15, 1972

By and Between

**THE FIRST PENNSYLVANIA BANKING
AND TRUST COMPANY,**

Trustee

and

SOUTHERN PACIFIC TRANSPORTATION COMPANY

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EQUIPMENT TRUST AGREEMENT, dated as of July 15, 1972, by and between THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, as Trustee (hereinafter called the Trustee), of the first part, and SOUTHERN PACIFIC TRANSPORTATION COMPANY, a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the Company), of the second part.

WHEREAS, the Company has contracted or will contract for the construction and transfer to the Trustee of the railroad equipment described herein; and

WHEREAS, title to such railroad equipment is to be vested in and is to be retained by the Trustee, and such railroad equipment is to be leased to the Company hereunder until title is transferred under the provisions hereof; and

WHEREAS, Southern Pacific Transportation Company Equipment Trust Certificates, Series 58 (hereinafter called Trust Certificates), are to be issued and sold in an aggregate principal amount not exceeding \$12,150,000, and the net proceeds (as hereinafter defined) of such sale together with such other cash, if any, as may be required to be deposited by the Company as hereinafter provided is to constitute a fund equal to the aggregate principal amount of Trust Certificates so issued and sold to be known as SOUTHERN PACIFIC TRANSPORTATION COMPANY EQUIPMENT TRUST, SERIES 58, to be applied by the Trustee from time to time in part payment of the cost of the Trust Equipment, the remainder of the cost thereof to be paid out of advance rentals to be paid by the Company as provided herein; and

WHEREAS, the texts of the Trust Certificates, the dividend warrants and the guaranty to be endorsed on the Trust Certificates by the Company are to be substantially in the following forms, respectively:

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[FORM OF TRUST CERTIFICATE WITH DIVIDEND WARRANTS]

\$1,000

No.

\$1,000

SOUTHERN PACIFIC TRANSPORTATION COMPANY
EQUIPMENT TRUST

SERIES 58

Equipment Trust Certificate

Total Authorized Issue \$12,150,000

THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, Trustee

Dividends at the rate of 7% Per Annum

Payable January 15 and July 15,

Principal hereof payable July 15, 19

THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, as Trustee under an Equipment Trust Agreement dated as of July 15, 1972, by and between THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, Trustee, of the first part, and SOUTHERN PACIFIC TRANSPORTATION COMPANY (hereinafter called the Company), of the second part, hereby certifies that the bearer, or, if this Certificate is registered as to principal, the registered holder hereof, is entitled to an interest in the principal amount of \$1,000 in SOUTHERN PACIFIC TRANSPORTATION COMPANY EQUIPMENT TRUST, SERIES 58, payable on the due date, stated above, upon presentation and surrender of this Certificate to the undersigned at its agency in the Borough of Manhattan, City and State of New York (which agency may be the office of Southern Pacific Transportation Company in said Borough and City), and to payment, until said last mentioned date, of dividends on said principal amount at the rate of 7% per annum from July 15, 1972, semi-annually on January 15 and July 15 in each year, according to the tenor of the dividend warrants hereto annexed, upon presentation and surrender of such warrants, as they severally mature, to the undersigned at its said agency, with interest at the dividend warrant rate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforceable, all 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, but payable only out of rentals or other

moneys received by the undersigned and applicable to such payment under the provisions of said Agreement.

This Certificate is one of an issue of Certificates having an aggregate principal amount not exceeding \$12,150,000, all issued or to be issued under and subject to the terms of said Agreement, under which certain railroad equipment leased to the Company (or cash or obligations defined in said Agreement as "Government Securities" in lieu thereof, as provided in said Agreement) is held by the undersigned in trust for the benefit of the holders of the interests represented by said Certificates, to which Agreement (a copy of which is on file with the undersigned at its said agency) reference is made for a full statement of the rights and obligations of the Company, the duties and immunities of the undersigned and the rights of the holder hereof thereunder.

The Certificates are issuable as bearer Certificates with dividend warrants attached, registrable as to principal, in the denomination of \$1,000, and as fully registered Certificates in the denominations of \$1,000 and any multiple of \$1,000. The Certificates with dividend warrants and the fully registered Certificates and the several denominations of fully registered Certificates are interchangeable upon presentation thereof at said agency of the undersigned, but only in the manner, subject to the limitations and upon payment of the charges, provided in the Agreement.

This Certificate may be registered as to principal at said agency of the undersigned in the Borough of Manhattan, City and State of New York, in the name of the holder hereof, and such registration noted hereon by or on behalf of the undersigned. Thereafter title to the interest represented by this Certificate shall pass only by transfer registered at said agency unless and until a transfer to bearer shall have been similarly registered and noted hereon. Such registration shall apply only to the principal of this Certificate and not to the dividend warrants hereunto attached, which shall continue to be payable to bearer and transferable by delivery.

Every holder of this Certificate and of the attached warrants, by accepting the same, agrees with the undersigned, with the Company, and with every subsequent holder hereof and thereof that this Cer-

tificate (unless registered in the name of the holder) and such warrants shall be transferable with the same effect as in the case of a negotiable instrument payable to bearer, by delivery by any person having possession of the same, respectively, howsoever such possession may have been acquired; and the undersigned and the Company may treat the bearer of this Certificate, or the registered holder hereof if this Certificate be registered in his name as above provided, and the bearer of any dividend warrant attached hereto whether or not this Certificate be so registered, as the absolute owner of this Certificate or of said warrants, as the case may be, for all purposes, and shall not be affected by any notice to the contrary.

In case of default in the performance or observance of any of the covenants of the Company in said Agreement contained, the principal amount represented by this Certificate may be declared due and payable, as provided in said Agreement.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by the facsimile signature of its President or one of its Vice Presidents and its corporate seal, in facsimile, to be hereunto affixed and to be attested by its Secretary or one of its Assistant Secretaries, and has caused dividend warrants bearing the facsimile signature of its Treasurer or one of its Assistant Treasurers to be attached hereto, the fifteenth day of July, 1972.

THE FIRST PENNSYLVANIA BANKING
AND TRUST COMPANY,

Trustee,

By

Vice President

ATTEST:

.....
Assistant Secretary

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[FORM OF FULLY REGISTERED TRUST CERTIFICATE]

REGISTERED

No. R

\$

SOUTHERN PACIFIC TRANSPORTATION COMPANY
EQUIPMENT TRUST

SERIES 58

Equipment Trust Certificate

Total Authorized Issue \$12,150,000

THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, Trustee

Dividends at the rate of 7% Per Annum

Payable January 15 and July 15,

Principal hereof payable July 15, 19

THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, as Trustee under an Equipment Trust Agreement dated as of July 15, 1972, by and between THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, Trustee, of the first part, and SOUTHERN PACIFIC TRANSPORTATION COMPANY (hereinafter called the Company), of the second part, hereby certifies that or registered assigns, is entitled to an interest in the principal amount of \$ in SOUTHERN PACIFIC TRANSPORTATION COMPANY EQUIPMENT TRUST, SERIES 58, payable on the due date stated above, upon presentation and surrender of this Certificate to the undersigned at its agency in the Borough of Manhattan, City and State of New York (which agency may be the office of Southern Pacific Transportation Company in said Borough and City), and to payment, until said last mentioned date, of dividends on said principal amount, semi-annually on January 15 and July 15 in each year, at the rate of 7% per annum from the date hereof, at said agency of the undersigned, with interest at said dividend rate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforceable, all 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, but payable only out of rentals or other moneys received by the undersigned and applicable to such payment under the provisions of said Agreement.

This Certificate is one of an issue of Certificates having an aggregate principal amount not exceeding \$12,150,000, all issued or to be issued under and subject to the terms of said Agreement, under which certain railroad equipment leased to the Company (or cash or obligations defined in said Agreement as "Government Securities" in lieu thereof, as provided in said Agreement) is held by the undersigned in trust for the benefit of the holders of the interests represented by said Certificates, to which Agreement (a copy of which is on file with the undersigned at its said agency) reference is made for a full statement of the rights and obligations of the Company, the duties and immunities of the undersigned and the rights of the registered holder hereof thereunder.

The Certificates are issuable as bearer Certificates with dividend warrants attached, registrable as to principal, in the denomination of \$1,000, and as fully registered Certificates in the denominations of \$1,000 and any multiple of \$1,000. The Certificates with dividend warrants and the fully registered Certificates and the several denominations of fully registered Certificates are interchangeable upon presentation thereof at said agency of the undersigned, but only in the manner, subject to the limitations and upon payment of the charges, provided in the Agreement.

This Certificate is transferable by the registered holder hereof in person or by duly authorized attorney on the books of the undersigned at its said agency in the Borough of Manhattan, City and State of New York, upon surrender hereof to the undersigned at its said agency, accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder hereof in person or by such attorney, in form satisfactory to the undersigned, and thereupon a new fully registered Certificate or Certificates in authorized denominations for the same aggregate principal amount and having the same date of maturity as this Certificate will be issued to the transferee in exchange therefor. The Trustee and the Company shall be entitled to treat the registered holder hereof as the absolute owner hereof for all purposes, and shall not be affected by any notice to the contrary.

In case of default in the performance or observance of any of the covenants of the Company in said Agreement contained, the prin-

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cipal amount represented by this Certificate may be declared due and payable, as provided in said Agreement.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by the facsimile signature of its President or one of its Vice Presidents and its corporate seal, in facsimile, to be hereunto affixed and to be attested by its Secretary or one of its Assistant Secretaries, the day of , 19 .

THE FIRST PENNSYLVANIA BANKING
AND TRUST COMPANY,

Trustee,

By
Vice President

ATTEST:

.....
Assistant Secretary

[FORM OF GUARANTY FOR FULLY REGISTERED TRUST CERTIFICATE]

SOUTHERN PACIFIC TRANSPORTATION COMPANY, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment of the principal of said Certificate, and of dividends thereon at the dividend rate specified therein on the semi-annual dates specified in said Certificate, with interest at the dividend rate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforceable, in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

SOUTHERN PACIFIC TRANSPORTATION
COMPANY,

By
President

WHEREAS, it is desired to secure to the holders of the Trust Certificates the payment of the principal thereof in 15 equal annual installments payable on the fifteenth day of July in each year beginning July 15, 1973, and ending July 15, 1987, as hereinafter more particularly provided, with dividends to said dates of maturity, respectively, as hereinafter provided, payable semi-annually on January 15 and July 15 in each year, and to evidence the rights of the holders of the Trust Certificates in substantially the forms hereinbefore set forth;

Now, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereto hereby agree as follows:

ARTICLE I
DEFINITIONS

For all purposes of this Agreement, unless the context otherwise requires:

Affiliate of the Company shall mean any corporation, which, directly or indirectly, controls or is controlled by, or is under common control with, the Company. For the purposes of this definition, *control* (including *controlled by* and *under common control with*), as used with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities or by contract or otherwise.

Company shall mean Southern Pacific Transportation Company.

Cost, when used with respect to Equipment, shall mean the actual cost thereof, and shall include only such items as may properly be included in such cost under the Interstate Commerce Commission's Uniform System of Accounts for Railroad Companies, as in effect at the time in question, or the accounting rules of such other Federal governmental authority having jurisdiction over the accounts of the Company, or to the extent not determined thereby or in case there be no such accounting rules of the Interstate Commerce Commission or other Federal authority in effect at such time, sound accounting practice.

Deposited Cash shall mean the aggregate of (a) cash and any advance rentals on deposit with the Trustee as provided in the first

paragraph of Section 2.01 hereof and, when required or indicated by the context, any Government Securities purchased by the use of such cash or rentals pursuant to the provisions of Section 7.08 hereof, and (b) any sums restored to Deposited Cash from rentals pursuant to Section 4.04(B)(1) hereof and on deposit with the Trustee.

Equipment shall mean standard-gauge railroad equipment (other than work equipment) which shall have been first put into operation after July 14, 1972.

The *estimated cost* of any Trust Equipment shall mean the estimated cost thereof specifically set forth herein or in any supplement hereto.

The *fair value* of any unit of Equipment shall be considered to be the Cost thereof less depreciation accrued on such Equipment computed by the straight-line method at the rate of one third of one per cent of the Cost for each calendar month from the date the same was first put into operation to the date as of which the value is to be determined.

Government Securities shall mean bonds, notes or other direct obligations of the United States of America or obligations for which the faith of the United States is pledged to provide for the payment of the interest and principal.

The word *holder*, when used with respect to Trust Certificates, shall include the plural as well as the singular number and, unless otherwise indicated by the context, shall mean and include the bearer of a Trust Certificate with dividend warrants not registered as to principal, the bearer of a dividend warrant, the registered owner of a Trust Certificate with dividend warrants registered as to principal, and the registered owner of a fully registered Trust Certificate.

Officer's Certificate shall mean a certificate signed by the President, a Vice President or an Assistant Treasurer of the Company.

Opinion of Counsel shall mean an opinion of counsel (who may be of counsel to the Company) satisfactory to the Trustee.

Request shall mean a written request for the action therein specified signed on behalf of the Company by the President, a Vice President, or an Assistant Treasurer of the Company and delivered to the Trustee.

Trust Certificates shall mean Southern Pacific Transportation Company Equipment Trust Certificates, Series 58, issued hereunder,

and *dividend warrants* shall mean dividend warrants attached or appertaining to Trust Certificates.

Trust Equipment shall mean all Equipment at the time subject to the terms of this Agreement.

Trustee shall mean The First Pennsylvania Banking and Trust Company, a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, and any successor as trustee hereunder.

The words *herein, hereof, hereby, hereto, hereunder* and words of similar import as used in this Agreement refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

TRUST CERTIFICATES AND ISSUANCE THEREOF

SECTION 2.01. The net proceeds (excluding premium and accrued dividends, if any) of the sale of any of the Trust Certificates shall forthwith upon issuance thereof, be deposited in cash with the Trustee. At the same time the Company shall, if necessary, deposit with the Trustee any advance rental payable by the Company to the Trustee under Section 4.04(A)(1) hereof.

Thereupon, without waiting for the recording or filing of this Agreement or of any other instrument respecting the Trust Equipment, the Trustee shall issue and deliver, as the Company shall direct by Request, Trust Certificates substantially in the forms set forth herein and in the aggregate principal amount so sold.

SECTION 2.02. Each of the Trust Certificates shall represent an interest in the principal amount therein specified in the trust created hereunder and shall bear dividends on said amount at the rate of 7% per annum, payable semi-annually on the fifteenth day of January and of July in each year.

The aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee hereunder shall not exceed the sum of \$12,150,000, except as provided in Sections 2.05 and 2.06 hereof. Each of the Trust Certificates shall bear upon its face the due date thereof together with such numbers, descriptions or marks of identification as the Trustee may determine.

The principal amount of the Trust Certificates shall become due in 15 equal annual installments payable on the fifteenth day of July in each year beginning July 15, 1973, and ending July 15, 1987. Dividend warrants evidencing the rights of the bearers thereof to the dividends on the Trust Certificates with dividend warrants shall be annexed to such Trust Certificates.

SECTION 2.03. The Trust Certificates, the dividend warrants and the guaranty to be endorsed on the Trust Certificates by the Company as hereinafter in Section 6.02 hereof provided shall be in substantially the forms hereinbefore set forth.

SECTION 2.04. The Trust Certificates shall be signed in the name and on behalf of the Trustee by the facsimile signature of the President or one of its Vice Presidents and its corporate seal in facsimile shall be attested by its Secretary or one of its Assistant Secretaries. The dividend warrants to be attached to the Trust Certificates with dividend warrants shall be authenticated by the facsimile signature of the Treasurer or any Assistant Treasurer of the Trustee. In case any officer of the Trustee whose signature, whether facsimile or not, shall appear on any of the Trust Certificates or on the dividend warrants shall cease to be such officer of the Trustee before the Trust Certificates or dividend warrants shall have been issued and delivered by the Trustee, such Trust Certificates and dividend warrants shall be adopted by the Trustee and be issued and delivered as though such person had not ceased to be such officer of the Trustee. Before executing or delivering any Trust Certificate the Trustee shall detach and cancel all matured dividend warrants thereto appertaining.

SECTION 2.05. The Trust Certificates with dividend warrants shall be in the denomination of \$1,000 each; shall be payable to bearer; shall be negotiable and transferable by delivery unless registered as to principal, in the manner hereinafter provided; and shall be dated July 15, 1972.

The fully registered Trust Certificates shall be in the denominations of \$1,000 or any multiple thereof; shall be registered as to both principal and dividends, in the name of the holder; shall be transferable upon presentation and surrender thereof for transfer at the agency of the Trustee in the Borough of Manhattan, City and State of New York (which agency may be the office of the Company in said

Borough and City), accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder of the surrendered Trust Certificate or Certificates or by duly authorized attorney, in form satisfactory to the Trustee; and shall be dated July 15, 1972, or the dividend payment date to which dividends shall have been paid, next preceding or coinciding with the date of issue, whichever is later, and shall bear dividends from the date thereof.

Fully registered Trust Certificates may be exchanged for a like aggregate principal amount of Trust Certificates with dividend warrants of the same maturity having all unmatured dividend warrants attached, or for a like aggregate principal amount of fully registered Trust Certificates of the same maturity of authorized denominations, and Trust Certificates with dividend warrants may be exchanged for a like aggregate principal amount of fully registered Trust Certificates of the same maturity of authorized denominations. The Trust Certificates to be exchanged shall be surrendered at said agency of the Trustee in the Borough of Manhattan, City and State of New York. All Trust Certificates with dividend warrants surrendered for exchange shall have attached all unmatured dividend warrants appertaining thereto, and, in case at the time of any such exchange dividends on the Trust Certificates are in default, they shall in addition have attached all matured dividend warrants in default appertaining thereto. Any of the Trust Certificates with dividend warrants may be registered as to the principal thereof in the name of the holder at said agency of the Trustee in the Borough of Manhattan, City and State of New York, and such registration shall be noted on the Trust Certificate by or on behalf of the Trustee. Thereafter no transfer thereof shall be valid unless made at said agency by the registered holder thereof in person, or by his duly authorized attorney, and similarly noted thereon; but the same may be discharged from registration and transferred to bearer as before. No registration, however, shall affect the dividend warrants, but every such dividend warrant shall continue to be transferable with the same effect as in the case of a negotiable instrument payable to bearer, by delivery thereof by any person in possession of the same, howsoever such possession may have been acquired.

Anything to the contrary herein notwithstanding, the parties hereto may deem and treat (i) the bearer of any Trust Certificate not regis-

tered as to principal and the bearer of any dividend warrant as the absolute owner of such Trust Certificate or dividend warrant, as the case may be, for the purpose of receiving payment thereof and for all other purposes, and shall not be affected by any notice to the contrary and (ii) the registered holder of any fully registered Trust Certificate or of any Trust Certificate with dividend warrants registered as to principal, as the case may be, as the absolute owner of such Trust Certificate for all purposes (except payment of dividends in the case of Trust Certificates with dividend warrants registered as to principal), and shall not be affected by any notice to the contrary.

For any registration, transfer, exchange or discharge from registration the Trustee shall require the payment of a sum sufficient to cover reimbursement for any stamp tax or other governmental charge connected therewith, and, in addition, in case of any exchange of Trust Certificates as hereinabove provided, such sum, not exceeding \$2.50 for each Trust Certificate issued on such exchange, as the Company may specify in a Request.

The Trustee shall not be required to issue, register, transfer or exchange Trust Certificates for a period of ten days next preceding any dividend payment date.

SECTION 2.06. In case any Trust Certificate, or the dividend warrants, if any, thereto appertaining, shall become mutilated or defaced or be lost, stolen or destroyed, then on the terms herein set forth, and not otherwise, the Trustee, upon Request, shall execute and deliver a new fully registered Trust Certificate or a Trust Certificate with dividend warrants, as the case may be, with, if a Trust Certificate with dividend warrants, all unmatured dividend warrants appertaining thereto, of like maturity, tenor and date, and bearing such number, designation or other mark of identification as the Trustee may determine, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and dividend warrants, or in lieu of or in substitution for the same if lost, stolen or destroyed, and shall make payment of any matured and unpaid dividend warrants appertaining to the same. The Company shall execute its guaranty on any Trust Certificates so delivered. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Company evidence to their satisfaction of the mutilation, defacement, loss, theft or destruc-

tion of such Trust Certificate and dividend warrants alleged to have been lost, stolen or destroyed, and of the ownership and authenticity of such mutilated, defaced, lost, stolen or destroyed Trust Certificate and dividend warrants, and also such security and indemnity as may be required by the Trustee and by the Company, in their discretion; and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates shall be issued, held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, stolen or destroyed Trust Certificates and dividend warrants, and shall preclude any and all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

SECTION 2.07. At any time prior to the issue of definitive Trust Certificates the Trustee shall, upon Request of the Company, issue and deliver, in lieu of definitive Trust Certificates, temporary Trust Certificates in any denomination or denominations specified in such Request. Such temporary Trust Certificates shall be substantially of the tenor of the definitive Trust Certificates in lieu of which they are issued and may be issued with or without dividend warrants and with such insertions, omissions, substitutions and variations as may be appropriate.

Temporary Trust Certificates shall be exchangeable without charge to the holder for the definitive Trust Certificates in lieu of which they are issued, and upon surrender and cancellation of any of such temporary Trust Certificates the Trustee shall issue and deliver in exchange therefor definitive Trust Certificates of the same maturity and for the same aggregate principal amount. Until so exchanged, the holders of the temporary Trust Certificates shall be entitled to the same rights hereunder as if the temporary Trust Certificates had been so exchanged.

ARTICLE III

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH

SECTION 3.01. The Company, as speedily as may be, shall cause to be constructed and shall cause to be sold, assigned, transferred and set over unto the Trustee, as trustee for the holders of the Trust Cer-

tificates and dividend warrants pertaining thereto, the Equipment described in Schedule A hereto.

To that end the Company hereby assigns, or as speedily as may be after entering into the contract or contracts for the construction of such Equipment agrees to assign, to the Trustee all its rights, title and interest under said contract or contracts. Such Equipment shall be delivered to the Company, which is hereby designated by the Trustee as its agent to receive such delivery, and an Officer's Certificate as to such delivery shall be conclusive evidence of such delivery.

In the event that it may be deemed necessary or desirable to procure for the transportation services of the Company, and to include in the trust hereby created, other Equipment in lieu of any of the Equipment specifically described in Schedule A hereto, the Company may cause such other Equipment to be transferred to the Trustee, to be substituted under the trust, and to that end the Company, upon entering into a contract or contracts for the construction of such other Equipment, shall assign to the Trustee all its rights, title and interest under the said contract or contracts.

SECTION 3.02. From time to time, when and as any of the Trust Equipment shall have been delivered to the Trustee or its agent pursuant to this Article III, the Trustee shall (subject to the provisions of Section 3.03 hereof) pay, upon Request, to the manufacturer or manufacturers of the delivered Trust Equipment out of Deposited Cash an amount which, together with all payments previously made out of Deposited Cash upon deliveries of Trust Equipment, will equal 80% of the aggregate Cost of the Trust Equipment then and theretofore delivered to the Trustee.

SECTION 3.03. The Company covenants that, contemporaneously with any payment by the Trustee pursuant to Section 3.02 hereof, it will pay to the Trustee the advance rental provided in Section 4.04(A) (2) hereof, and thereupon the Trustee shall, upon request, pay to the manufacturer or manufacturers of the delivered Trust Equipment, by the use of such advance rental, the portion of the Cost of the delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 3.02 hereof; the intention being that the Company shall ultimately pay not less than 20% of the final Cost of all the Trust Equip-

ment, and the Trustee and the Company shall at any time if occasion arises adjust their accounts and payments to the end that the Trustee shall pay with Deposited Cash not more than 80% of such final Cost and the Company shall pay as advance rental the remainder, to be not less than 20% of such final Cost.

SECTION 3.04. The Trustee shall not pay out any Deposited Cash against the delivery of any of the Trust Equipment unless and until it shall have received :

(a) An invoice or invoices from the manufacturer or manufacturers and an Officer's Certificate which shall state (i) that such Trust Equipment is Equipment as herein defined, (ii) that the Cost of such Trust Equipment is an amount therein specified or is not less than an amount therein specified, and (iii) that such Trust Equipment has been delivered to the Company, as agent for the Trustee, and has been plated or marked in accordance with the provisions of Section 4.06 hereof;

(b) A bill or bills of sale of such Trust Equipment from the manufacturer or manufacturers thereof to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee that the title to the Trust Equipment described therein is free from all liens and encumbrances;

(c) An Opinion of Counsel that such bill or bills of sale are valid and effective, either alone or in connection with any other instrument referred to in such opinion, to vest in the Trustee title to such Trust Equipment free from all liens and encumbrances; and

(d) In case of any Trust Equipment not specifically described herein, an Opinion of Counsel that a proper supplement hereto in respect of such Trust Equipment has been duly executed by the Trustee and the Company, and duly filed and recorded in accordance with Section 6.04 hereof.

Any Officer's Certificate pursuant to this Section 3.04 may state that the Cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment to be evidenced in a final Officer's Certificate to be delivered to the Trustee.

If the aggregate final Cost of the Trust Equipment shall be less than 125% of the aggregate principal amount of Trust Certificates issued hereunder, the Company will cause to be transferred to the

Trustee additional Trust Equipment in such amount and of such Cost that the aggregate final Cost of the Trust Equipment will be at least 125% of the aggregate principal amount of Trust Certificates issued hereunder and, whether or not Deposited Cash is to be paid out in respect of such additional Trust Equipment, will furnish to the Trustee in respect of such additional Trust Equipment the documents set forth in the first paragraph of this Section 3.04.

SECTION 3.05. Interest, if any, allowed by the Trustee upon any moneys received by it under the provisions hereof and any interest (in excess of accrued interest paid from Deposited Cash at the time of purchase) or other profit accruing upon any investment of Deposited Cash as permitted by Section 7.08 hereof shall belong to the Company and be paid to it by the Trustee, as long as the Company shall not be known to the Trustee to be in default hereunder.

ARTICLE IV

LEASE OF TRUST EQUIPMENT TO THE COMPANY

SECTION 4.01. The Trustee does hereby let and lease to the Company for the term of 15 years from and after July 15, 1972, all the Trust Equipment.

SECTION 4.02. In the event that the Company shall, as provided in Sections 3.01 and 3.04 hereof or in Sections 4.07 and 4.09 hereof, cause to be transferred to the Trustee other Equipment in addition to or in substitution for any of the Equipment herein specifically described, such other Equipment shall be included as part of the Trust Equipment by supplement hereto and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Trust Equipment herein specifically described.

SECTION 4.03. As and when any Equipment shall from time to time be transferred and delivered to the Company as agent for the Trustee, the same shall, *ipso facto* and without further instrument of lease or transfer, pass under and become subject to all the terms and provisions hereof.

SECTION 4.04. The Company hereby accepts the lease of all the Trust Equipment, and covenants and agrees to accept delivery and possession hereunder of the Trust Equipment as hereinbefore pro-

vided; and the Company covenants and agrees to pay to the Trustee (or, in the case of taxes, to the proper taxing authority), 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, rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery and lease to the Company of any of the Trust Equipment):

(A) The Company shall pay to the Trustee, as hereinafter provided, as advance rental hereunder, sums which shall be equal to the difference between the Cost of the Trust Equipment (other than Trust Equipment subjected hereto pursuant to Sections 4.07 and 4.09 and the last paragraph of Section 3.04 hereof) and the portion of such Cost to be provided out of the net proceeds (excluding premium and accrued dividends, if any) of the sale of the Trust Certificates, the intention being that, when all such Trust Equipment shall have been delivered to the Company as agent for the Trustee, the Company shall have paid or shall pay to the Trustee, as advance rental hereunder, a sum equal to the amount by which the aggregate Cost of such Trust Equipment exceeds such net proceeds of the sale of the Trust Certificates. The Company agrees to pay such advance rentals as follows:

(1) At the time of issue of the Trust Certificates a sum which, when added to such net proceeds of the sale of the Trust Certificates deposited with the Trustee, will make the total sum deposited equal to the principal amount of the Trust Certificates issued;

(2) Upon delivery of any of such Trust Equipment a sum equal to the portion of the Cost of such delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 3.02 hereof, but not less than 20% of such Cost.

(B) In addition to such advance rental the Company shall pay to the Trustee, as hereinafter provided, as rental for the Trust Equipment and whether or not at the time any thereof shall have been delivered to the Company, the following:

(1) (a) The necessary and reasonable expenses of the trust hereby created, including compensation and expenses provided for herein, and (b) an amount equal to any expenses incurred or loss of principal (including interest accrued thereupon at time of purchase) in connection with any purchase, sale or redemption by the Trustee of Government Securities;

(2) Any and all taxes, assessments and governmental charges upon or on account of the income or property of the trust, or of this Agreement, which the Trustee as such may be required to pay;

(3) (a) The amounts of the dividends payable on the Trust Certificates, when and as the same shall become payable, and (b) interest at the dividend rate from the due date, upon the amount of any installments of rental payable under this subparagraph (3) and the following subparagraph (4) which shall not be paid when due, to the extent legally enforceable; and

(4) The principal of the Trust Certificates, when and as the same shall become payable, whether upon the respective stated dates of maturity thereof or otherwise under the provisions thereof or of this Agreement.

Nothing herein or in the Trust Certificates contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the holder of any Trust Certificate or dividend warrant any tax, assessment or governmental charge required by any present or future law of the United States of America or of any state, county, municipality or other taxing authority thereof to be paid in behalf of, or withheld from the amount payable to, the holder of any Trust Certificate or dividend warrant. The Company shall not be required to pay any tax, assessment or governmental charge so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof, unless in the judgment of the Trustee the rights or interests of the Trustee or of the holders of the Trust Certificates or dividend warrants may be materially endangered thereby.

SECTION 4.05. At the termination of the lease provided herein and after all payments due or to become due from the Company hereunder shall have been completed and fully made to the Trustee, (1) such payments shall be applied and treated as purchase money and as the full purchase price of the Trust Equipment, (2) any moneys remaining in the hands of the Trustee after providing for all outstanding Trust Certificates and dividend warrants and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company, (3) title to all the Trust Equipment shall vest in the Company, and (4) the Trustee shall execute for record in public

offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be requested by the Company in order to make clear upon public records the Company's title to all the Trust Equipment under the laws of any jurisdiction; *provided, however*, that until that time title to the Trust Equipment shall not pass to or vest in the Company, but title to and ownership of all the Trust Equipment shall be and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to and the possession and use thereof by the Company.

SECTION 4.06. The Company agrees that, at or before the delivery to the Company of each unit of the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of such unit a metal plate bearing the following words, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of such unit, in either case in letters not less than one inch in height:

SOUTHERN PACIFIC TRANSPORTATION COMPANY EQUIPMENT
TRUST, SERIES 58, THE FIRST PENNSYLVANIA BANKING AND TRUST
COMPANY, TRUSTEE, OWNER AND LESSOR.

Such plates or marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of each unit of the Trust Equipment. In case, prior to the termination of the lease provided for herein, any of such plates or marks shall at any time be removed, defaced or destroyed, the Company shall promptly cause the same to be restored or replaced. The Company shall not change or permit to be changed, the numbers of any of the Trust Equipment at any time covered hereby (or any numbers which may have been substituted as herein provided) except in accordance with a statement of new numbers to be substituted therefor which previously shall have been filed with the Trustee by the Company and which shall be filed and recorded as provided in Section 6.04 hereof.

The Trust Equipment may be lettered "SOUTHERN PACIFIC COMPANY", "SOUTHERN PACIFIC TRANSPORTATION COMPANY", "SOUTHERN PACIFIC SYSTEM", "SOUTHERN PACIFIC LINES", "SOUTHERN PACIFIC", "S.P. Co.", "S.P.", "EVERGREEN FREIGHT CAR CORPORATION", "EFCX", "PACIFIC FRUIT EXPRESS COMPANY", "PACIFIC FRUIT EXPRESS", "P.F.E.",

"P.F.F.", "S.P.F.E.", or with the name or initials of any other Affiliate which is permitted to use the Trust Equipment as herein provided, or in some other appropriate manner for convenience of identification of the leasehold interest of the Company therein. The Trust Equipment may also be numbered for convenience of identification and bear identifying symbols and lettering of the Company and Union Pacific Railroad Company. During the continuance of the lease provided for herein, the Company shall not allow the name of any person, association or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof by the Company or by any person, association or corporation other than the Trustee.

SECTION 4.07. The Company agrees that it will maintain and keep all the Trust Equipment in good order and proper repair at its own cost and expense, unless and until worn out, unsuitable for use, lost or destroyed. Whenever any of the Trust Equipment shall be worn out, lost or destroyed or become unsuitable for use, the Company shall deliver to the Trustee an Officer's Certificate describing such Trust Equipment and stating the then fair value thereof and shall either (a) deposit with the Trustee an amount in cash equal to such fair value or (b) cause to be transferred to the Trustee additional Equipment, free from all liens and encumbrances, of a fair value at least equal to the then fair value of such Trust Equipment so worn out, unsuitable for use, lost or destroyed, and deliver to the Trustee, in respect of such additional Equipment, certificates, bills of sale and Opinions of Counsel, all in like manner as provided in Section 3.04 hereof, and, in addition, an Officer's Certificate describing such additional Equipment and stating the Cost and the then fair value thereof. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of such wearing out, unsuitableness for use, loss or destruction. Cash deposited with the Trustee pursuant to this Section 4.07 shall be held and applied as provided in Section 4.09 hereof.

The Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once in every calendar year following the calendar year in which occurs the first delivery of any of the Trust Equipment and during the continuance of the lease provided for herein, an Officer's Certificate stating (1) the amount, description and numbers of all the Trust Equipment that may have

become worn out, or that may have become unsuitable for use or lost or destroyed by accident or otherwise since the date of the last preceding statement, (2) the amount, description and numbers of all the Trust Equipment then undergoing repairs, other than running repairs, or then withdrawn from use for such repairs, and stating that in the case of all the Trust Equipment repainted or repaired since the date of the last preceding statement the plates or marks required by Section 4.06 hereof have been preserved, or that the same when repainted or repaired have been again plated or marked as required thereby, and (3) such other information as to the condition and state of repair of the Trust Equipment as the Trustee may reasonably request. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect the Trust Equipment, at the then existing locations thereof.

SECTION 4.08. The Company, so long as it is not in default hereunder, shall be entitled to the possession of the Trust Equipment from and after delivery thereof to the Company, and the use thereof upon the lines of railroad owned or operated by the Company (either alone or jointly with another) or by any Affiliate, or upon lines over which the Company or any Affiliate shall have trackage or other operating rights, and the Company shall also be entitled to permit the use of the Trust Equipment upon connecting and other carriers in the usual interchange of traffic and upon connecting and other carriers over which through service may from time to time be afforded, but only upon and subject to all the terms and conditions of this Agreement.

The Company shall not, without the written consent of the Trustee first had and obtained, assign or transfer its rights hereunder, or transfer or sublet the Trust Equipment or any part thereof except to Pacific Fruit Express Company, a corporation organized and existing under and by virtue of the laws of the State of Utah, with an office at 116 New Montgomery Street, San Francisco, California 94105, or to any other Affiliate, in which case such assignment, transfer or sublease shall be expressly made subject and subordinate to all the provisions of this Agreement and the rights and remedies of the Trustee hereunder; and the Company shall not, without such written consent, except as provided in this Section 4.08, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment. An assignment or transfer to a railroad company or other

purchaser which shall acquire all or substantially all the lines of railroad of the Company, and which, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, shall not be deemed a breach of this covenant. The appointment of a receiver or receivers in equity or reorganization or a trustee or trustees in bankruptcy or reorganization for the Company or for its property shall not be deemed an unauthorized assignment if, prior to any action by the Trustee to exercise the remedies herein provided, such receiver or receivers or trustee or trustees shall be discharged or such receiver or receivers or trustee or trustees shall, pursuant to court order or decree, in writing duly assume and agree to pay or perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, in such manner that such obligations shall have the same status as obligations incurred by such receiver or receivers or trustee or trustees. The Trustee shall have the right to declare the lease provided for herein terminated in case of any unauthorized assignment or transfer of its rights hereunder or in case of any unauthorized transfer or sublease of any of the Trust Equipment. The election of the Trustee to terminate the lease provided for herein shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided.

SECTION 4.09. Any units of the Trust Equipment which shall have become worn out or unsuitable in any respect for the use of the Company may be released, and it is hereby mutually agreed that at any time hereafter until title thereto shall become vested in the Company the Trustee will release any such units of the Trust Equipment upon the filing with it of a Request and an Officer's Certificate which shall describe such units, shall state that they have become worn out or unsuitable for the use of the Company, shall state the selling price thereof, and shall specify the Cost and the then fair value thereof. No such release shall be made unless and until the Company shall have paid to the Trustee an amount equal to such selling price or fair value, whichever shall be greater.

Any moneys paid to the Trustee pursuant to this Section 4.09 or Section 4.07 hereof, hereinafter called "Replacement Funds", shall be

received and held by the Trustee in trust hereunder pending delivery of additional Equipment and may be invested and reinvested as provided in Section 7.08 hereof. Upon the filing with it of a Request and an Officer's Certificate which shall specify the kind and number of units of Equipment to be purchased and the then fair value thereof, such moneys, in an amount not exceeding such fair value, shall, upon receipt by the Trustee of certificates, bills of sale and Opinions of Counsel, all in like manner as is provided in Section 3.04 hereof, be applied to the purchase of such Equipment.

SECTION 4.10. The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the states in which the Trust Equipment, or any thereof, may be operated, and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however*, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates or dividend warrants. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

ARTICLE V

REMEDIES IN EVENT OF DEFAULT

SECTION 5.01. The Company covenants and agrees that in case

(a) the Company shall default in the payment of any part of the rental payable hereunder (including advance rental) for more than 30 days after the same shall have become due and payable, or

(b) the Company shall make or suffer any unauthorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or sublease of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such assignment or transfer or sublease to be cancelled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within 30 days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said 30 days to deposit with the Trustee a sum in cash equal to the fair value of the Trust Equipment so assigned or transferred or subleased or the possession of which shall have been parted with otherwise than as herein authorized (any sum so deposited to be returned to the Company upon the cancellation of such assignment, transfer or sublease and the recovery of possession by the Company of such Trust Equipment), or

(c) the Company shall, for more than 90 days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants hereof on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance,

then, in any such case (herein sometimes called an event of default), the Trustee in its discretion may, and upon the written request of the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid advance rental, but not including rentals required for the payment of dividends accruing after the date of such declaration) payable by the Company as set forth in Section 4.04 hereof and not theretofore paid. Thereupon the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest at the dividend rate, to the extent legally enforceable, on any portion thereof overdue; and the Trustee shall be entitled to recover judgment for the total amount so becoming payable by the Company, together with interest thereon at the dividend rate to the extent legally enforceable, and to collect such judgment out of any property of the Company wherever situated.

In addition, in case one or more events of default shall happen, the Trustee in its discretion may, and upon the written request of the

holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare the principal of all the Trust Certificates then outstanding to be due and payable, and thereupon the same shall become and be immediately due and payable.

SECTION 5.02. In case of the happening of any event of default, the Trustee may by its agents enter upon the railroads and premises of the Company and of any Affiliate and take possession of all or any part of the Trust Equipment and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid *per diem*, mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after declaring due and payable the entire amount of rentals payable by the Company as provided in Section 5.01 hereof) may sell the same or any part thereof, free from any and all claims of the Company at law or in equity, in one lot and as an entirety or in separate lots, in so far as may be necessary to perform and fulfill the trust hereunder, at public or private sale, for cash or upon credit, in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of interests hereunder in the manner herein provided. Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and shall have a reasonable opportunity to bid at any such sale. Upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment hereunder, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments therefore made by the Company for the rent or use of the Trust Equipment or any of it shall, in case of the happening of any event of default and such taking possession, withdrawal, lease or sale by the Trustee, give

to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of interests hereunder. No such taking possession, withdrawal, lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of rentals then or thereafter due and payable, and the Company shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 4.04 hereof (other than dividends or interest not then accrued), whether or not they shall have then matured. The holders of a majority in principal amount of the then outstanding Trust Certificates shall have the right from time to time to direct which of the proceedings above provided for shall be taken for the enforcement of the remedies contained herein.

SECTION 5.03. If, in case of the happening of any event of default, the Trustee shall exercise any of the powers conferred upon it by Sections 5.01 and 5.02 hereof, all payments made by the Company to the Trustee hereunder after such event of default, and the proceeds of any judgment collected from the Company by the Trustee hereunder, and the proceeds of every sale or lease by the Trustee hereunder of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Trust Certificates and/or dividend warrants), shall be applied by the Trustee to the payment in the following order of priority: (a) of all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement, and (b) of the dividends then due, with interest on overdue dividends at the dividend rate to the extent legally enforceable, and of the principal of all the outstanding Trust Certificates, with interest thereon at the dividend rate to the extent legally enforceable from the last preceding dividend date, whether such Trust Certificates shall have then matured by their terms or not, all such payments to be in full if such proceeds shall be sufficient, and, if not sufficient, then *pro rata* without preference between principal and dividends.

After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company free from any further liabilities or obligations to the Trustee hereunder. If after applying all such sums of money realized by the Trustee as aforesaid there shall remain any amount due to the Trustee under the provisions hereof, the Company agrees to pay the amount of such deficit to the Trustee. If after applying as aforesaid the sums of money realized by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

SECTION 5.04. If at any time after the principal of all the Trust Certificates shall have been declared and become due and payable or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as in Section 5.01 hereof provided, but before July 15, 1987, all arrears of rent (with interest at the dividend rate upon any overdue installments to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than the principal of Trust Certificates and any other rental installments which shall not at the time have matured according to their terms) shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition hereof shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested by the holders of a majority in principal amount of the Trust Certificates then outstanding and which shall not have matured (other than by declaration) according to their terms, shall by written notice to the Company waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 5.05. No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, nor any action

or failure or omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of the holder of any Trust Certificate or dividend warrant, nor any delay or indulgence granted to the Company by the Trustee or by any such holder, shall affect the obligations of the Company hereunder or the obligations of the Company under the guaranty endorsed on the Trust Certificates. The Company hereby waives presentation and demand in respect of any of the Trust Certificates and dividend warrants and waives notice of presentation, of demand and of any default in the payment of the principal of and dividends on the Trust Certificates.

SECTION 5.06. In case the Trustee shall demand possession of the Trust Equipment pursuant to the provisions hereof and shall reasonably designate a point or points upon the railroad of the Company or of any Affiliate for the delivery of the Trust Equipment to it, the Company shall at its own expense forthwith and in the usual manner cause the Trust Equipment to be moved to such point or points on such railroad as shall be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee, or the Trustee may at its option keep the Trust Equipment on any of the lines of railroad or premises of the Company or of any Affiliate until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage the necessary facilities at any convenient point or points selected by the Trustee. It is hereby expressly covenanted and agreed that the performance of this covenant is of the essence of this Agreement and that, upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

SECTION 5.07. The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates or dividend warrants, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity.

ARTICLE VI

ADDITIONAL COVENANTS AND AGREEMENTS BY THE COMPANY

SECTION 6.01. The Company hereby covenants and agrees to make payment of the reasonable expenses and compensation of the Trustee, and of all taxes, assessments and governmental charges herein mentioned for which the Trustee, as such, may be liable and of the rentals and of the other amounts provided for herein.

SECTION 6.02. The Company covenants, agrees and guarantees that the holder of each of the Trust Certificates shall receive the principal amount thereof 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, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon at the dividend rate to the extent legally enforceable), and shall receive dividends thereon in like money at the rate specified therein from the date specified therein to the date of maturity of such Trust Certificate, at the times and place and otherwise as expressed in the Trust Certificates and in the dividend warrants (and, if not so paid, with interest thereon at the dividend rate to the extent legally enforceable); and the Company further covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the forms hereinbefore set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Company by the manual or facsimile signature of its President or a Vice President. In case any officer of the Company whose signature shall appear on said guaranty shall cease to be such officer before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of the Trust Certificates, such guaranty shall nevertheless be as effective and binding upon the Company as though the person who signed said guaranty had not ceased to be, or had then been acting as, such officer.

SECTION 6.03. The Company covenants and agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate

provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation or claim which if unpaid might become a lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Company therein; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, unless such contest will in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

SECTION 6.04. The Company covenants and agrees to pay the expenses incident to the preparation and execution of the Trust Certificates and dividend warrants to be issued hereunder, or connected with the preparation, execution, recording and filing hereof and of any instruments executed under the provisions hereof with respect to the Trust Equipment. The Company with all convenient speed will cause this Agreement and all supplements hereto to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Company will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register and record any and all further instruments required by law or reasonably requested by the Trustee for the purposes of proper protection of the title of the Trustee and the rights of the holders of the Trust Certificates and of fully carrying out and effectuating this Agreement and the intent hereof; and the Company will promptly furnish to the Trustee certificates or other evidences of filing and recording pursuant to the last preceding sentence, and of any other such filing, registration and recording, and an Opinion or Opinions of Counsel with respect thereto.

SECTION 6.05. The Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof.

SECTION 6.06. The Company covenants that it will make payment of the rentals on account of the Trust Equipment as provided in this

Agreement notwithstanding that any of the Trust Certificates and dividend warrants shall have been acquired by the Company or shall not have been presented for payment.

ARTICLE VII

THE TRUSTEE

SECTION 7.01. The Trustee hereby accepts the trusts imposed upon it by this Agreement, and covenants and agrees to perform the same as herein expressed.

SECTION 7.02. The Trustee covenants and agrees to apply and distribute the rentals received by it under Section 4.04(B) hereof (other than sums restored to Deposited Cash from rentals pursuant to Section 4.04(B)(1) hereof) when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in said Section 4.04(B).

SECTION 7.03. The Trustee shall cause to be kept at an agency in the Borough of Manhattan, City and State of New York (which agency may be the office of the Company in said Borough and City), books for the registration, exchange and transfer of the Trust Certificates; and upon presentation for any such purpose the Trustee will register or cause to be registered, exchange or cause to be exchanged, or transfer or cause to be transferred, as the case may be, as hereinbefore provided, under such reasonable regulations as it may prescribe, any of the Trust Certificates.

SECTION 7.04. The Trustee shall not be required to undertake any act or duty in the way of insuring, taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this Agreement until fully indemnified by the Company or by one or more of the holders of the Trust Certificates against all liability and expenses. The Trustee shall not be responsible for the filing or recording or refiling or re-recording of this Agreement or of any supplement hereto. The Trustee may issue and deliver Trust Certificates in advance of such filing or recording. In accepting delivery of and making payment for the Trust Equipment hereunder, or in accepting any cash payable hereunder in respect of Trust Equipment, the Trustee may rely upon and shall be fully protected by the certificates, bills of sale

and Opinions of Counsel to be furnished to it under Sections 3.04, 4.07 or 4.09 hereof, as the case may be, and shall not be required to make any further investigation of or inquiry concerning the matters covered thereby.

SECTION 7.05. The Trustee shall be under no obligation to take any action for the execution or enforcement of the trust hereby created unless requested thereunto in writing by the holders of not less than 25% in principal amount of the then outstanding Trust Certificates and unless indemnified to its satisfaction against expense and liability with respect thereto, and unless also furnished with proof satisfactory to it as to the ownership of the Trust Certificates in respect of which any such request may be made; but this provision, in the absence of such request, shall not affect any discretion herein given to the Trustee to determine whether it shall take action in respect of any default hereunder or what action it shall take.

SECTION 7.06. No holder of any Trust Certificate or dividend warrant shall have any right to institute any suit, action or proceeding for the execution and enforcement of the trust hereby created unless, after the aforesaid request in writing by the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall have been made to the Trustee, and after indemnity satisfactory to it shall have been provided, and after 90 days shall have elapsed after receipt by the Trustee of such request, it shall decline, fail or neglect to institute any proceedings pursuant thereto. Neither the provisions of this Section 7.06 nor the provisions of Section 7.05 hereof shall affect or limit in any way the obligations of the Company under its guaranty hereinabove provided or the rights of the holders of Trust Certificates or dividend warrants to institute suit for the enforcement of payments due under said guaranty in respect of the Trust Certificates or dividend warrants.

SECTION 7.07. The Trustee may for all purposes conclusively assume that the Company is not in default under the terms hereof until notified in writing to the contrary by the holders of at least 10% in principal amount of the then outstanding Trust Certificates, which notice shall distinctly specify the event of default desired to be brought to the attention of the Trustee. As to any fact or matter the manner

of determining which is not specifically prescribed herein, the Trustee may for all purposes rely upon an Officer's Certificate as to such fact or matter. The Trustee shall not incur any liability to anyone in relying conclusively on, and in acting upon, any notice, consent, order, certificate, warrant or other paper or instrument believed by it to be genuine or authentic and to be signed by the proper party or parties.

SECTION 7.08. Any money at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried by the Trustee on deposit with itself, and the Trustee will allow interest upon any such moneys held by it in trust at the rate generally prevailing among Philadelphia banks and trust companies or allowed by it upon deposits of a similar character.

At any time, and from time to time, if at the time there shall be no default under the terms of this Agreement, the Trustee, on Request, shall invest and reinvest Deposited Cash and Replacement Funds held by it in Government Securities, at such prices, including any premium and accrued interest, as are set forth in such Request, such Government Securities to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates and dividend warrants.

The Trustee shall, on Request, or the Trustee may, in the event funds are required for payment against delivery of Equipment, sell such Government Securities, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the case may be, the proceeds of any such sale up to the amount paid for such Government Securities, including accrued interest.

The Trustee shall restore to Deposited Cash or Replacement Funds, as the case may be, out of rent received by it for that purpose under the provisions of Section 4.04(B)(1) hereof, an amount equal to any expenses incurred in connection with any purchase or sale of Government Securities and also an amount equal to any loss of principal incident to the sale or redemption of any Government Securities for a sum less than the amount paid therefor, including accrued interest. The Company, if not in default under the terms hereof, shall be entitled to receive any profit which may be realized from any sale or redemption of Government Securities.

SECTION 7.09. The Trustee shall not be liable to anyone for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the manufacturers thereof or of the Company, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation in respect of the value thereof or in respect of the title thereto.

The Trustee may perform its powers and duties hereunder by or through such attorneys, agents and servants as it shall appoint, and shall be entitled to rely upon the advice of counsel (who may be counsel to the Company), and shall be answerable for only its own acts, negligence and wilful defaults and not for the default or misconduct of any attorney, agent or servant appointed by it with reasonable care. The Trustee shall not be responsible in any way for the recitals herein contained or for the execution or validity of this Agreement or of the Trust Certificates (except for its own execution thereof), or for the guaranty by the Company, or for any mistake of fact or law.

The Trustee shall be entitled to receive payment of all of its expenses and disbursements hereunder, including reasonable counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company.

The Trustee in its individual capacity may own, hold and dispose of Trust Certificates and dividend warrants with the same rights which it would have if it were not Trustee.

Upon Request, any moneys held by the Trustee which shall have been deposited or are held for the payment of the principal amount of or dividends on any Trust Certificates remaining unclaimed for six years after the date of maturity of such Trust Certificates or the date such dividends were due and payable, as the case may be, shall be repaid by the Trustee to the Company, and all liability of the Trustee with respect to such money shall thereupon cease and the holders of such Trust Certificates and dividend warrants shall thereafter be entitled to look only to the Company for payment thereof; *provided, however*, that the Trustee, before being required to make any such repayment may, at the expense of the Company, cause notice that said moneys have

not been claimed and that after a date specified therein, which shall be not less than thirty days after the date of publication, any unclaimed balance of such moneys then remaining upon deposit with the Trustee will be repaid to the Company, to be published once in a daily newspaper printed in the English language and published in the Borough of Manhattan, the City of New York. In no event shall the holders of such Trust Certificates and dividend warrants be entitled to interest upon such money whether held by the Trustee or so repaid to the Company.

Any moneys at any time held by the Trustee hereunder shall, until paid out or invested by the Trustee as herein provided, be held by it in trust as herein provided for the benefit of the holders of the Trust Certificates and dividend warrants.

SECTION 7.10. The Trustee shall, at least once in each year, render to the Company a statement of its said trust and of the accounts relating thereto, and covering such matters as the Company may properly require, and the Company may from time to time examine the books and accounts of the Trustee relating to the Trust Certificates, to this Agreement and to the acts of the Trustee hereunder.

SECTION 7.11. If at any time the Trustee or any successor to it in the trust hereby created shall desire to divest itself of title to the Trust Equipment, and to terminate its duties and obligations and rights hereunder and under the Trust Certificates, it shall so notify the Company in writing, and the Company shall thereupon designate in writing to the Trustee a bank or a trust company, qualified as below specified, to serve until a successor is appointed by the holders of Trust Certificates as hereinafter provided, to which may be assigned the entire right, title and interest of the Trustee or such successor in the Trust Equipment, and in which may be vested the rights, powers, duties and obligations of the Trustee hereunder and under the Trust Certificates. Upon the transfer and delivery of all moneys and Trust Equipment held by the retiring trustee, and the execution by the retiring trustee of such instruments of transfer as may be reasonably requested by the successor trustee, and upon acceptance by the successor trustee of the assignment and of the trust, the retiring trustee shall be relieved and discharged of all the title, rights, powers, duties and obligations of the trust hereunder and under the Trust Certificates, and

the same shall become vested in such successor trustee, and every provision hereof applicable to the retiring trustee shall apply to such successor trustee with like effect as if such successor trustee had been originally named herein in the place and stead of the party of the first part. In the event that the Company shall fail to designate such a successor trustee by instrument in writing delivered to the retiring trustee within two weeks from the time of receiving such notice in writing from the retiring trustee, the retiring trustee may thereupon designate such successor trustee. The foregoing provisions are, however, subject to the right of the holders of the majority in principal amount of the then outstanding Trust Certificates by an instrument in writing to appoint any successor trustee, if such appointment is made within one year from the date of the giving of such notice to the Company. The Company shall execute all writings recognizing the transfer of title as aforesaid and all instruments of further assurance or otherwise as reasonably may be requested by the successor trustee in the premises, and will do and perform any and all acts necessary to establish and maintain the title and rights of the successor trustee in and to the Trust Equipment. Every successor trustee shall be a bank or a trust company doing business in Philadelphia, Pennsylvania, or in the Borough of Manhattan, City and State of New York, having a capital and surplus aggregating at least \$5,000,000, if there be such bank or trust company willing and able to accept the trust upon reasonable and customary terms and duly qualified to act as such trustee.

SECTION 7.12. Any corporation resulting from any merger or consolidation to which the Trustee or any successor to it shall be a party, or any corporation in any manner succeeding to all or substantially all of the business of the Trustee or any successor trustee, provided such corporation shall be a bank or a trust company doing business in Philadelphia, Pennsylvania, or in the Borough of Manhattan, City and State of New York, and shall have a capital and surplus aggregating at least \$5,000,000, shall be the successor trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

ARTICLE VIII

MISCELLANEOUS

SECTION 8.01. Any request or other instrument provided by this Agreement to be signed or executed by holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such holders in person or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such agent or attorney, or of the holding by any person of Trust Certificates, shall be sufficient for any purpose hereof and shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under such request or other instrument if made in the following manner, viz.:

(a) The fact and date of the execution by any person of any such request or of any other instrument in writing may be proved by the affidavit of a witness to such execution, or by the certificate of any notary public or of any other officer authorized to take acknowledgments of deeds to be recorded in the state where the acknowledgment may be taken, certifying that the person signing such request or other instrument acknowledged to him the execution thereof.

(b) The amount and numbers, designations or marks of identification of Trust Certificates with dividend warrants not registered as to principal held by any person executing any such request or other instrument as a holder of such Trust Certificates, and the date of his holding the same, may be proved by a certificate executed by any trust company, bank or other depository, wheresoever situated, whose certificate shall be deemed by the Trustee to be satisfactory, showing that at the date therein mentioned such person had on deposit with or exhibited to such depository the Trust Certificates with dividend warrants numbered, designated or identified and described in such certificate. The Trustee may presume the continuance of any such holding unless and until it shall receive proof satisfactory to it to the contrary.

(c) The ownership of Trust Certificates with dividend warrants registered as to principal and of fully registered Trust Certificates shall be determined by the registry books to be kept as provided in Section 7.03 hereof.

SECTION 8.02. Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates and dividend warrants, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates and dividend warrants.

SECTION 8.03. Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 8.04. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail to (a) in the case of the Company, One Market Street, San Francisco, California 94105, or such other address as may hereafter be furnished to the Trustee in writing by the Company, and (b) in the case of the Trustee, Fifteenth and Chestnut Streets, Philadelphia, Pennsylvania 19101, or such other address as may hereafter be furnished to the Company in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company or the Trustee, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 8.05. This Agreement has been simultaneously executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

SECTION 8.06. This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 8.07. The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the Company and the Trustee have caused their names to be signed hereto by their respective officers thereunto

duly authorized and their respective corporate seals, duly attested, to be hereunto affixed as of the day and year first written.

THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, Trustee,

By Wm. Kreyer
Vice President

ATTEST:

[Signature]
Assistant Secretary

SOUTHERN PACIFIC TRANSPORTATION COMPANY,

By [Signature]
Vice President and Treasurer

ATTEST:

[Signature]
Assistant Secretary

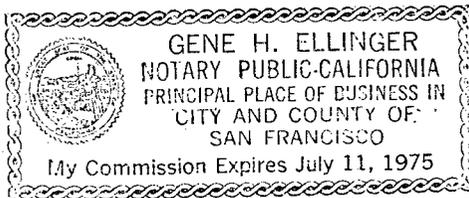
STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.

On this 23rd day of August, 1972, before me personally appeared Wm. M. Kreyer, to me personally known, who, being by me duly sworn, says that he is a Vice President of The First Pennsylvania Banking and Trust Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Signature]
THOMAS DOUGHERTY
Notary Public, State of New York
No. 41-1004750
Qualified in Queens County
Certificate filed in New York County
Commission expires March 30, 1973

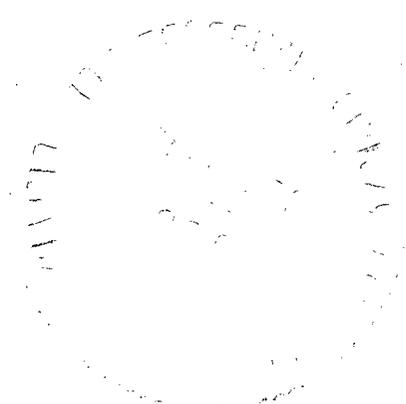
STATE OF CALIFORNIA,
CITY AND COUNTY OF SAN FRANCISCO, } ss.

On this 14th day of August, 1972, before me personally appeared ROBERT J. McLEAN, to me personally known, who, being by me duly sworn, says that he is Vice President and Treasurer of Southern Pacific Transportation Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Gene H. Ellinger

GENE H. ELLINGER
Notary Public
in and for the State of California.
Principal place of business in the
City and County of San Francisco.
My Commission expires July 11, 1975.



Schedule A

Number of Units	Description
10	1500 H.P., four axle, four motor, diesel switching locomotive units, General Motors Corporation (Electro-Motive Division), builder; lettered SP and numbered 2670 to 2679, both inclusive;
184	70-ton, 50 ft. 6 in., insulated box cars with bulkheads, air bag attachments and hydra-cushion underframes; Pacific Car and Foundry Company, builder; lettered SP and numbered 694630 to 694813, both inclusive;
500	70-ton, 50 ft. 7 in., single sheath box cars with hydra-cushion underframes; Gunderson, Inc., builder; lettered SP and numbered 242000 to 242499, both inclusive.
Estimated Total Cost\$15,302,510	

THE WESTERN PACIFIC RAILROAD
COMPANY,

by *E. H. Van Dellen*
Vice President

[Corporate Seal]

Attest:

J. A. Brew
Assistant Secretary

ACF INDUSTRIES, INCORPORATED

~~INCORPORATED~~

by *W. H. Wilson*
Vice President

[Corporate Seal]

Attest:

[Signature]
Assistant Secretary

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE [REDACTED],)

On this *25th* day of *August* 1972, before me personally appeared *Thomas C. Cutbert*, to me personally known, who, being by me duly sworn, says that he is a Vice President of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said association, that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Sheri Stark

Notary Public

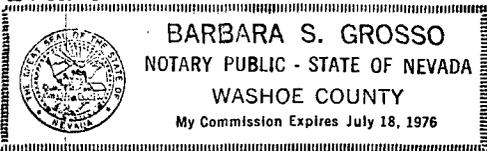
[Notarial Seal]

My Commission Expires

March 3, 1975

STATE OF NEVADA,)
) SS.:
COUNTY OF WASHOE ,)

On this *24th* day of *August* 1972 before me personally appeared *J. O. Raggio*, to me personally known, who, being by me duly sworn, says that he is, a *Executive VP.* Vice President of FIRST NATIONAL BANK OF NEVADA, that one of the seals affixed to the foregoing instrument is the corporate seal of said bank, that said instrument was signed and sealed on behalf of said bank by authority of its Board of *Directors*, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.



Barbara S. Grosso

Notary Public

[Notarial Seal]

My Commission Expires *7-18-76*

STATE OF CALIFORNIA,)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this *21st* day of *August* 1972, before me personally appeared **E. L. VAN DELLEN**, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE WESTERN PACIFIC RAILROAD 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.



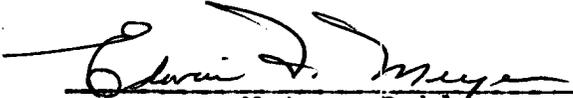
Diane L. Fafoutis
Notary Public

[Notarial Seal]

My Commission Expires *December 14, 1975*

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK ,).

On this 30th day of August 1972, before me personally appeared W. W. Wikson, to me personally known, who, being by me duly sworn, says that he is a Vice President of ACF INDUSTRIES, INCORPORATED, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

[Notarial Seal]

My Commission Expires

EDWIN F. MEYER
NOTARY PUBLIC, State of New York
No. 30-7917303
Qualified in Nassau County
Certificate filed in New York County
Commission Expires March 30, 1974

ANNEX A

- Item 1: ACF INDUSTRIES, INCORPORATED, a New Jersey corporation, 750 Third Avenue, New York, New York 10017.
- Item 2: Seller: The Railroad.
- Item 3: The Reconstruction and Conditional Sale Agreement dated as of June 1, 1972, among the Vendor, the Vendee, PACCAR Inc. and the Railroad.
- Item 4: The Builder warrants that the Equipment will be reconstructed in accordance with the requirements, specifications and standards set forth in Article 1 of the Reconstruction and Conditional Sale Agreement to which this Annex A is attached (hereinafter called the Agreement) and warrants the Equipment will be 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 under normal use and service, the Builder's obligation under this Item 4 being limited to making good at its factory any part or

parts of any unit of the Equipment which shall be returned to the Builder with transportation charges prepaid, within one year after the delivery of such unit to the Vendee, and which the Builder's examination shall disclose to its satisfaction to have been thus defective. The foregoing warranty of the Builder is expressly in lieu of all other warranties, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and of all other obligations or liabilities under Articles 1 and 2 of the Agreement and Item 5 of this Annex A, and 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 further agrees with the Vendor and the Vendee that neither the inspection as provided in Article 2 of the Agreement nor any examination nor the acceptance of any units of the Equipment as provided in said Article 2 shall be deemed a waiver or a modification by the Vendor or the Vendee of any of their rights under this Item 4.

Item 5: Except in cases of articles or materials specified by the Railroad and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by the Builder, the Builder agrees to indemnify, protect and hold harmless the Railroad, the Vendor and the Vendee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad, the Vendor or the Vendee, its assigns or the users of the Equipment because of the use in or about the reconstruction of the Hulks or any unit thereof or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Railroad likewise will indemnify, protect and hold harmless the Vendor, the Builder and the Vendee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against them because of the use in or about the reconstruction of

the Hulks or any unit thereof or operation of any of the Equipment of any article or material specified by the Railroad and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Railroad and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Railroad every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Railroad and purchased or otherwise acquired by the Builder for use in or about the reconstruction of the Hulks or any unit thereof or operation of any of the Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Builder further agrees to execute and

deliver to the Railroad or the users of the Equipment all and every such further assurance as may be reasonably requested by the Railroad more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Builder will give notice to the Railroad of any claim known to the Builder from which liability may be charged against the Railroad hereunder and the Railroad will give notice to the Builder of any claim known to the Railroad from which liability may be charged against the Builder hereunder.

SCHEDULE A

Quantity	Description of Equipment	Railroad's Road Numbers (Both Inclusive)	Hulk Purchase Price		Base Reconstruction Cost		Purchase Price	
			Per Unit	Total	Per Unit	Total	Per Unit	Total
111	50' 70-ton Dual Air Pac Box Cars	W.P. 65001-65111	\$8,200	\$910,200	\$18,800	\$2,086,800	\$27,000	\$2,997,000

Specifications: No. 21-26002, dated June 14, 1972.

June 1, 1972

TRANSFER AGREEMENT

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

Attention: Corporate Trust Department

The undersigned is purchasing the used railroad equipment described in Schedule A hereto (hereinafter called the Hulks) from the Seller named opposite the description of such equipment in Schedule A hereto. The undersigned desires to have such Hulks rebuilt. The undersigned hereby agrees with you as follows:

1. In order to cause the Hulks to be reconstructed and sold to us by you on conditional sale, the undersigned hereby assigns and transfers to you a security title to the Hulks.

2. You will hold security title under and pursuant to one of the two Reconstruction and Conditional Sale Agreements dated as of June 1, 1972 (hereinafter individually called an Agreement), among ACF Industries, Incorporated and PACCAR Inc (hereinafter individually called a Builder), respectively, and you, The Western Pacific Railroad Company, and us, and you will direct

that the Hulks be reconstructed, pursuant to the applicable Agreement in accordance with the applicable specifications. In accordance with the applicable Agreement the undersigned will direct the Hulks to be delivered to the respective Builder on your behalf at such point or points within the United States of America as such Builder shall designate.

3. Upon completion of the reconstructions, the reconstructed Hulks will be delivered and conditionally sold by you to us in accordance with the applicable Agreement.

4. If Hulks are excluded from the applicable Agreement, you shall assign your interest in such Hulks, without warranty, as provided in the third paragraph of Article 2 of the applicable Agreement.

5. It is understood and agreed that this Agreement is being entered into solely to permit you to effectuate the foregoing and your interests in the Hulks, in present form or as rebuilt, is a security interest and that we shall at all times be the beneficial owner of the same.

If the foregoing is in accordance with your understanding, please sign a copy of this letter in the space pro-

vided and return it to the undersigned, whereupon this letter shall become a valid and binding agreement between us.

Very truly yours,

FIRST NATIONAL BANK
OF NEVADA,

by

Vice President

[Seal]

ACCEPTED:

FIRST SECURITY BANK
OF UTAH, NATIONAL ASSOCIATION,

by

Vice President

SCHEDULE A

<u>Description of Hulks</u>	<u>Seller</u>
111 50'1" 50-ton Insulated Box Cars (without 50-ton trucks, body bolsters, draft gear and center sill sections)	The Western Pacific Railroad Company
139 50' 50-ton DF Insulated Box Cars (less 50-ton trucks, body bolsters, draft gear and center sill section)	The Western Pacific Railroad Company
57 50' 50-ton DF Insulated Box Cars (less 50-ton trucks, body bolsters, draft gear and center sill section)	Tidewater Southern Railway Company

LEASE OF RAILROAD EQUIPMENT

Dated as of June 1, 1972

between

FIRST NATIONAL BANK OF NEVADA

and

THE WESTERN PACIFIC RAILROAD COMPANY

LEASE OF RAILROAD EQUIPMENT, dated as of June 1, 1972, between FIRST NATIONAL BANK OF NEVADA (hereinafter called the Lessor) and THE WESTERN PACIFIC RAILROAD COMPANY (hereinafter called the Lessee).

WHEREAS, the Lessor, the Lessee and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION (hereinafter called the Vendor) have entered into two Reconstruction and Conditional Sale Agreements dated as of June 1, 1972 (hereinafter called the Reconstruction and Conditional Sale Agreements), with ACF INDUSTRIES, INCORPORATED, and PACCAR INC. (hereinafter individually called a Builder and together the Builders), respectively, wherein the Vendor has agreed to sell to the Lessor its interest in the railroad equipment described in Schedule A hereto after it has been reconstructed by the Builders;

WHEREAS, the Lessee desires to lease all the units of said equipment, or such lesser number as are delivered and accepted and settled for under the Reconstruction and Conditional Sale Agreements on or prior to December 31, 1972 (such units described in Schedule A hereto being hereinafter called the Units), at the rentals and for the terms and upon the conditions hereinafter provided;

Section 2. Rental. The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease 25 consecutive semiannual payments, each payable on January 1 and July 1 in each year (or if such date is not a business day, on the next succeeding business day), each such date being hereinafter called a Rental Payment Date, commencing January 1, 1973. The first such semiannual rent payment shall be in an amount equal to .0229167% of the Purchase Price (as defined in the applicable Reconstruction and Conditional Sale Agreement) of each Unit for each day elapsed from and including the date such Unit is settled for under such Reconstruction and Conditional Sale Agreement to January 1, 1973. The remaining 24 semiannual rental payments in respect of each Unit subject to this Lease shall be an amount equal to 5.69912% of the Purchase Price of each such Unit subject to this Lease.

The Lessor irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments provided for in this Lease in immediately available Salt Lake City funds (including but not limited to the payments required under § 6 hereof) for the account of the Lessor, care of the Vendor at its office at 79 South Main Street, Salt Lake City, Utah 84111, attention of Corporate Trust Department. Such payments shall be applied by the Vendor to satisfy the obligations of the Lessor under the Reconstruction and Conditional Sale Agreements due and payable on, or within one day after

such payments are due hereunder and, so long as no event of default (or event which, with notice or lapse of time, or both, could constitute an event of default) under the Reconstruction and Conditional Sale Agreements shall have occurred and be continuing, any balance shall be paid by the Vendor to the Lessor.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or under the Reconstruction and Conditional Sale Agreements, including the Lessee's rights by subrogation under Article 7 thereof, or the Builders or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization

of this Lease, any insolvency, bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

Section 3. Term of Lease. The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§6 and 9 hereof, shall terminate on the date on which the final semiannual payment of rent in respect thereof is due hereunder.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Units, upon default by the Lessee hereunder or under either Reconstruction and Conditional Sale Agreement in its capacity as guarantor or otherwise, are subject to the rights of the Vendor under the Reconstruction and Conditional Sale Agreements. If an event of default should occur under either Reconstruction and Conditional Sale Agreement, the Vendor may terminate this Lease (or rescind its termination), all as provided therein, unless the Lessee is not so in default under this Lease or under the Reconstruction and Conditional Sale Agreements (in its capacity as guarantor or otherwise). If a Declaration of Default (as defined in the Reconstruction and Conditional Sale Agreements) should be made under either Reconstruction and Conditional Sale Agreement due to an event of default not occasioned by an act or omission of the Lessee hereunder or not attributable to the Lessee under such Reconstruction and Conditional Sale Agreement as aforesaid, and if such Declaration of Default shall not have been rescinded by the Vendor within 30 days of the making thereof, or if the Vendor theretofore has indicated either in writing to the Lessor or the Lessee or by the commencement of the remedies specified under Article 16 of the Reconstruction and

Conditional Sale Agreements that it will not rescind such Declaration of Default, the Lessee, without penalty, may terminate this Lease.

Section 4. Identification Marks. The Lessee, so long as this Lease shall remain in effect, will cause each Unit to be kept numbered with the identifying number set forth in Schedule A to the respective Reconstruction and Conditional Sale Agreement and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, in letters not less than one inch in height, the name of the Vendor followed by the words "Security Owner" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor or the Vendor to such Unit and the rights of the Lessor under this Lease and of the Vendor under the Reconstruction and Conditional Sale Agreements. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such names and words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of

new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and the Lessor by the Lessee and filed, recorded or deposited by the Lessee in all public offices where this Lease will have been filed, recorded or deposited.

Except as above provided, the Lessee, so long as this Lease shall remain in effect, will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease. Nothing contained in this Section 4 shall bar the Lessor from having its name, initials or other insignia on the Units.

Section 5. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal or foreign taxes (other than any United States federal income tax [and, to the extent that the Lessor receives credit therefor against its United States federal income tax liability,

any foreign income tax] payable by the Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts or gross receipts taxes [other than gross receipts taxes in the nature of sales or use taxes], up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business without apportionment to any other state or, if no such taxes would be payable, then up to the amount of taxes which would be payable in any other taxing jurisdiction charging the lowest rate of such taxes without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments or license fees and any charges, fines or penalties in connection therewith (hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Reconstruction and Conditional Sale Agreements, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all

impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder or under the Reconstruction and Conditional Sale Agreements. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of invoice therefor.

In the event that the Lessor shall become obligated to make any payment to the Vendor or the Builder pursuant to Article 5 of the Reconstruction and Conditional Sale Agreements not covered by the foregoing paragraph of this Section 5, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said Article 5.

In the event any reports with respect to impositions

are required to be made on the basis of individual Units, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Vendor in such Units or notify the Lessor and the Vendor of such requirement and make such reports in such manner as shall be satisfactory to the Lessor and the Vendor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any impositions, pursuant to this Section 5, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

Section 6. Payment for Casualty Occurrences.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (each such occurrence being hereinafter called a Casualty Occurrence) during the term of this Lease, the Lessee shall, promptly after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor and the Vendor in writing with respect thereto. On the Rental Payment Date next succeeding such notice the Lessee shall pay to the Lessor an amount equal to the accrued rental for such Unit to the date of such payment plus a sum equal to the Casualty

Value (as hereinafter defined) of such Unit as of such Rental Payment Date, in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit.

The Casualty Value of each Unit shall be determined by multiplying the Purchase Price of such Unit by the applicable percentages set forth opposite each date in the following schedule:

<u>Rental Payment Date</u>	<u>Percentage of Purchase Price</u>	<u>Rental Payment Date</u>	<u>Percentage of Purchase Price</u>
1/1/73	106.0050%	7/1/79	65.7272%
7/1/73	104.7591	1/1/80	59.0353
1/1/74	103.0701	7/1/80	55.1903
7/1/74	101.0913	1/1/81	51.2138
1/1/75	98.8389	7/1/81	47.1062
7/1/75	96.4004	1/1/82	42.8821
1/1/76	90.8264	7/1/82	38.5346
7/1/76	88.0907	1/1/83	34.0754
1/1/77	85.2087	7/1/83	29.4952
7/1/77	82.1863	1/1/84	24.8087
1/1/78	76.0408	7/1/84	20.0040
7/1/78	72.7402	1/1/85	15.0000
1/1/79	69.3020		

Except as hereinabove in this § 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

The Lessee will, at all times while this Lease is in effect, at its own expense, cause to be carried and maintained insurance in respect of the Units at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Lessee on equipment owned by it and the benefits thereof shall be payable as provided in the Reconstruction and Conditional Sale Agreements and will furnish appropriate evidence of such insurance coverage upon request of Lessor. Any damages receivable from others, any salvage value paid by the Lessee, any condemnation payments and any net insurance proceeds, together with any interest received thereon pursuant to Article 6 of the Reconstruction and Conditional Sale Agreements, as the result of insurance carried by the Lessee received by the Lessor in respect of Units suffering a Casualty Occurrence (all hereinafter collectively referred to as Recoveries) shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 6 and the excess of such Recoveries, if any,

shall belong to the Lessor. If the Lessor shall receive any such Recoveries after the Lessee shall have made payments pursuant to this § 6 without deduction for such Recoveries the Lessor shall pay such Recoveries to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such Recoveries shall remain the property of the Lessor. In the event of the loss, theft, irreparable damage or complete destruction of such Unit, the Lessee shall also pay the Lessor the salvage value of such Unit which will be based upon its net scrap value, computed at the current quoted price per gross ton of number 1 railroad heavy melting steel scrap at San Francisco, California, on the date of the Casualty Occurrence, less an allowance of \$6.00 per gross ton for dismantling such Unit. Upon such payment of the salvage value of such Unit, the title to such Unit, subject to the rights of the Vendor under the Reconstruction and Conditional Sale Agreements shall pass to and vest in the Lessee.

All proceeds of insurance received by the Lessor in respect of insurance carried on any Unit or Units not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

Section 7. Annual Reports. On or

before August 1 in each year, commencing with the year 1973, the Lessee will cause to be furnished to the Lessor and the Vendor an accurate statement, as of the preceding June 30, (a) showing the amount, description and numbers of the Units then leased hereunder and/or covered by the Reconstruction and Conditional Sale Agreements, the amount, description and number of all Units that may have suffered a Casualty Occurrence during the preceding twelve months (or since the date of this Lease in the case of the first such statement) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by § 4 hereof and Article 9 of the Reconstruction and Conditional Sale Agreements shall have been preserved or replaced. The Lessor shall have the right at its sole cost, risk and expense, by its authorized representatives, to inspect the Units and the Lessee's records with respect thereto, at such times as shall reasonably be necessary to confirm to the Lessor the existence and proper maintenance of the Units during the continuance of this Lease.

Section 8. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; and Indemnification. The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the

and rules, the Lessee agrees to make such alterations, changes, additions and replacements at its own expense; and the Lessee agrees at its own expense to use, maintain and operate such Unit in full compliance with such laws and rules so long as it is subject to this Lease; provided, however, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor hereunder or under the Reconstruction and Conditional Sale Agreements.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good order and repair.

Any and all additions to any Unit and any and all parts installed on or replacements made to any Unit shall be considered accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free of any lien, charge, security interest or encumbrance (except for those created by the Reconstruction and Conditional Sale Agreements) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself.

The Lessee agrees to indemnify, protect and hold

harmless the Lessor and the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of the Reconstruction and Conditional Sale Agreements or this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person.

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

Section 9. Default. If, during the continuance of this Lease, one or more of the following events (hereinafter sometimes called Events of Default) shall occur:

A. default shall be made in the payment of any part

of the rental provided in § 2 hereof and such default shall continue for five days;

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

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Reconstruction and Conditional Sale Agreements and such default shall continue for 30 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied;

D. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Reconstruction and Conditional Sale Agreements and this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings (whether or not subject to ratification) in such manner that such obligations

shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier;

E. any other proceedings shall be commenced by or against the Lessee hereunder or under the Reconstruction and Conditional Sale Agreements under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or under the Reconstruction and Conditional Sale Agreements), unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), and all the obligations of the Lessee under this Lease and under the Reconstruction and Conditional Sale Agreements shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings

shall have been commenced, whichever shall be earlier, then, in any such case, the Lessor, at its option, may:

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

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

may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on a basis of 8-1/4% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, and including, without limitation,

(iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to any portion of the 7% investment credit attributable to the reconstructed basis of the Equipment (hereinafter called the Investment Credit) allowed by Section 38 and related sections of the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), which was lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 14 or any other provision of the Lease or the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default plus such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the maximum depreciation deduction authorized with respect to a Unit under Section 167 of the Code utilizing the "class lives" and asset depreciation ranges" prescribed in accordance with Section 167(m) of said Code

for an asset described in Asset Guideline Class No. 40.1 as described in Revenue Procedure 72-10, 1972 IRB 8 (hereinafter called the Depreciation Deduction) which was lost, not claimed, not available for claim, disallowed or recaptured in respect of a Unit as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 14 or any other provision of this Lease, the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default.

Anything in this § 9 to the contrary notwithstanding, any default in the observance or performance of any covenant, condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance with respect to the Lessor of all or any portion of the Investment Credit or Depreciation Deduction or both shall be for all purposes of this Lease deemed to be cured if the Lessee shall, on or before the next rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance

of the Investment Credit or Depreciation Deduction or both in respect of such Unit, agree to pay to the Lessor the revised rental rate in respect of such Unit determined as provided in the fourth paragraph of § 14 hereof.

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

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of

rights of the Lessor hereunder (including, but not limited to, the rights under §§ 5, 6, 9 and 14) shall inure to the benefit of the Lessor's assigns. Whenever the term Lessor is used in this Lease it shall apply and refer to each such assignee of the Lessor.

So long as the Lessee shall not be in default under this Lease or under the Reconstruction and Conditional Sale Agreements, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the Reconstruction and Conditional Sale Agreements, but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The Lessee, at its own expense, will promptly pay or discharge or cause to be duly discharged any lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor after the date hereof or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interests of the Lessor, the Vendor or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the next succeeding paragraph hereof.

So long as the Lessee shall not be in default under this Lease or under the Reconstruction and Conditional Sale Agreements, the Lessee shall be entitled to the possession of the Units and to the use thereof of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon the lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic and equipment, but only upon and subject to all the terms and conditions of this Lease, including the last paragraph of this § 11, and the Reconstruction and Conditional Sale Agreements. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation (which shall have duly assumed the obligations of the Lessee hereunder and under the Reconstruction and Conditional Sale Agreements) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the railroad properties of the Lessee as an entirety or substantially as an entirety, provided that such assignee

or transferee will not, upon the effectiveness of such merger or consolidation, be in default under any provision of this Lease.

The Lessee agrees that during the term of this Lease, it will not assign any Unit to service involving the regular operation and maintenance thereof outside the United States of America.

Section 12. Return of Units upon Expiration of Term; Purchase Options. As soon as practicable on or after the expiration of the term of this Lease with respect to the Units but in any event not later than 90 days after such expiration, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of the Units to the Lessor upon such storage tracks of the Lessee as the Lessee may designate and permit the Lessor to store such Units on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on the lines of railroad operated by the Lessee as directed by the Lessor, the movement and storage of the Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Unit, to inspect the same;

provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. The Lessee shall advise the Lessor of the Units, if any, which have suffered a Casualty Occurrence as of the expiration of the Lease and if the Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which within three months after the expiration of this Lease the Lessor shall elect to abandon, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. The Lessor shall execute and deliver to the Lessee a bill of sale or bills of sale transferring to the Lessee, or upon its order, the Lessor's title to and property in any Unit abandoned by it pursuant to the immediately

preceding sentence. The Lessee shall have no liability to the Lessor in respect of any Unit so abandoned by the Lessor after termination of the Lease; provided, however, that the foregoing clause shall not in any way relieve the Lessee of its obligations pursuant to § 6 hereof to make payments equal to the Casualty Value of any Unit experiencing a Casualty Occurrence during the term of this Lease.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may elect, by written notice delivered to the Lessor not less than six months prior to the end of the term of this lease, to purchase all, but not fewer than all the Units, covered by this Lease at the end of the term of this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of such term.

Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

If on or before four months prior to the expiration of the term of this Lease, the Lessor and the Lessee are

unable to agree upon a determination of the Fair Market Value of the Units, such value shall be determined in accordance with the foregoing definitions by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or, failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fee of the Appraiser shall be borne by the Lessee.

Section 13. Opinion of Counsel. On each Closing Date (as defined in the Reconstruction and Conditional Sale Agreements), the Lessee will deliver to the Lessor two counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor, the Vendor and their respective counsel, to the effect that:

A. the Lessee is a corporation legally incorporated, validly existing and in good standing under the laws of its state of incorporation (specifying the same), with

under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound; and

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

On each Closing Date the Lessor will deliver to the Lessee an opinion of counsel for the Lessor stating that the Reconstruction and Conditional Sale Agreements and this Lease have been duly authorized, executed and delivered by the Lessor and are legal and valid instruments, binding upon the Lessor and enforceable against the Lessor in accordance with their terms.

Section 14. Federal Income Taxes. The Lessor, as the owner of each Unit, shall be entitled to such deductions, credits or other benefits as are provided by the Code (as defined in § 9 of this Lease), to an owner of property, including (without limitation) an allowance for the Investment Credit and the Depreciation Deduction (each as defined

in § 9 of this Lease) with respect to the Units.

Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof. Lessee agrees to keep and make available for inspection and copying by Lessor such records as will enable Lessor to determine whether it is entitled to the full benefit of the Investment Credit and the Depreciation Deduction with respect to the Units.

The Lessee represents and warrants that (i) none of the portion of the basis of the Units attributable to reconstruction constitutes property, the construction, reconstruction or erection of which was begun before April 1, 1971; (ii) at the time the Lessor becomes the owner of the Units, that portion of the Purchase Price of the Units attributable to reconstruction (such amount being the Purchase Price of the Units less that portion thereof attributable to the Hulks as specified in Schedule A to the Reconstruction and Conditional Sale Agreements) will qualify as "new section 38 property" within the meaning of Section 48(b) of the Code; (iii) at the time the Lessor becomes the owner of the Units, that portion of the basis of the Units attributable to reconstruction will not have been used by any

person so as to preclude "the original use of such property" within the meaning of Section 48(b) and 167(c)(2) of the Code from commencing with the Lessor; (iv) at the time the Lessor becomes the owner of the Units, no investment credit, depreciation or other tax benefits will have been claimed by any person with respect to the portion of the basis of the Units attributable to reconstruction; and (v) at all times during the term of this Lease, that portion of the basis of the Units attributable to reconstruction will constitute "Section 38 property" within the meaning of Section 48(a) of the Code.

If (other than for the reasons set forth below) the Lessor shall lose, or shall not have or shall lose the right to claim, or there shall be disallowed with respect to the Lessor, all or any portion of the Investment Credit with respect to the reconstructed portion of any Unit or Depreciation Deduction with respect to any Unit, the rental rate applicable to such Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Investment Credit or Depreciation Deduction has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return over the term of the Lease in respect of such Unit under this Lease to equal the net return that would have been available if the Lessor had

been entitled to utilization of all or such portion of the Investment Credit or Depreciation Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the loss of all or any portion of the Investment Credit or Depreciation Deduction; provided, however, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor all or any portion of such Investment Credit or Depreciation Deduction with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under § 6 hereof;

(ii) a voluntary transfer by the Lessor of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the rentals from such Unit under the Lease (except as provided in § 2 hereof) unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the amendment either of the Hulk Purchase Agreement or the Transfer Agreement (as defined in the

Reconstruction and Conditional Sale Agreements) or the Reconstruction and Conditional Sale Agreements without the prior written consent of the Lessee;

(iv) the failure of the Lessor to claim the Investment Credit or Depreciation Deduction, as applicable, in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming the Investment Credit or Depreciation Deduction, as applicable;

(v) the failure of the Lessor to have sufficient liability for tax against which to credit such Investment Credit or sufficient income to benefit from the Depreciation Deduction, as applicable;

(vi) the failure of the Lessor to take timely action in contesting a claim made by the Internal Revenue Service with respect to the disallowance of such Investment Credit or Depreciation Deduction, if the failure to take such action in a timely manner shall have precluded the right of the Lessee to contest such claim, or a failure to take action to contest any such claim after a timely request to conduct such contest has been given by the Lessee to the Lessor (provided that the Lessee shall upon demand of the Lessor pay to the Lessor the expenses of any such contest as a condition of prosecuting the same);

or the release, waiver, compromise or settlement of any action or proceeding taken in accordance with this clause (vi) by the Lessor without the prior written consent of the Lessee; or

(vii) any other fault of the Lessor which directly causes the loss of any of the aforesaid tax benefits; provided, however, that the execution and delivery of this Lease and the other documents herein referred to and the carrying out of the transactions contemplated herein and therein in accordance with the terms of this Lease and such other document shall not be deemed to have caused the loss of such tax benefit under this clause (vii).

If action is taken by the Lessor with respect to the disallowance of all or a portion of the Investment Credit or Depreciation Deduction and the final determination shall be adverse to the Lessor, the Lessee shall pay to the Lessor interest on the amount of the tax and interest paid attributable to the Investment Credit or Depreciation Deduction disallowed, computed at the rate of 8-1/4% per annum from the date of payment of such tax and interest to the date the Lessee shall reimburse the Lessor in accordance with the provisions of this § 14. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

If the Lessor's right to claim all or any part of the full Investment Credit or Depreciation Deduction with respect to a Unit, which was not claimed or was disallowed, shall be established by the final judgment or decree of the court or administrative agency having jurisdiction thereof, or if the Lessor shall release, waive, compromise or settle any claim without the written consent of the Lessee, then, on the next succeeding rental payment date thereafter, or after such judgment or decree shall have become final, as the case may be, the rental rate in respect of such Units set forth in § 2 of this Lease shall again become applicable to such Unit and the Lessor shall forthwith upon demand of the Lessee reimburse Lessee in an amount equal to the excess, if any, of (i) the sum of (A) the difference between the increased rental paid by the Lessee with respect to such Unit pursuant to the fourth paragraph of this § 14 and the rental applicable to such Unit pursuant to § 2 of this Lease and (B) any interest paid by the Lessee to the Lessor pursuant to the next preceding paragraph of this § 14 over (ii) the difference between (A) an amount equal to interest at the rate of 8-1/4% per annum on the amount of any federal income tax paid by the Lessor on account of the disallowance or inability to claim the Investment Credit or Depreciation Deduction on such Unit and (B) the amount of any interest to which the Lessor would be entitled in connection with the refund of any tax paid on account of such disallowance or inability to claim; provided, however, that if the amount

calculated in accordance with clause (ii) exceeds the amount calculated in accordance with clause (i), the Lessee shall pay such excess to the Lessor promptly on demand.

The Lessee's and the Lessor's agreement to pay any sums which may become payable pursuant to this § 14 shall survive the expiration or other termination of this Lease.

Section 15. Recording; Expenses. The Lessee will cause this Lease, the Reconstruction and Conditional Sale Agreements and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, recording and depositing and refiling, re-recording and redepositing required of the Lessor under Article 18 of the Reconstruction and Conditional Sale Agreements and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, re-register, re-record or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease or the Reconstruction and Conditional Sale Agreements; and the Lessee will promptly furnish to the Vendor and the Lessor

evidences of all such filing, registering, recording or depositing, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Reconstruction and Conditional Sale Agreements shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

The Lessor will pay or cause to be paid the reasonable costs and expenses involved in the preparation and printing of this Lease and the Lessee will pay the reasonable costs and expenses involved in the recording of this Lease. The Lessor and the Lessee will each bear the respective fees and disbursements, if any, of their respective counsel.

Section 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any non-payment of rentals and other obligations when due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 9-1/4% per annum of the overdue rentals for the period of time during which they are overdue.

Section 17. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the

duly authorized officers of the Lessor and the Lessee.

Section 19. Execution. This Lease may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Although this Lease is dated as of June 1, 1972, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

FIRST NATIONAL BANK OF NEVADA,

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

THE WESTERN PACIFIC RAILROAD COMPANY.

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

SCHEDULE A

<u>Quantity</u>	<u>Description of Equipment</u>	<u>Lessee's Road Numbers</u>	<u>Unit</u>		<u>Aggregate Purchase Price</u>	
			<u>Purchase Price</u>	<u>Purchase Price</u>	<u>Purchase Price</u>	<u>Purchase Price</u>
111	50' 70-ton Dual Air Pac Box Cars	W.P. 65001-65111	\$27,000		\$2,997,000	
196	50' 70-ton Insulated Box Cars	W.P. 61101-61296	18,900		3,704,400	