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INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

9-117A140

Date APR 27 1979

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CC Washington, D.C.

RECORDATION NO. 10322 Filed 1425

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INTERSTATE COMMERCE COMMISSION

April 24, 1979

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RECORDATION NO. Filed 1425

APR 27 1979 -4 35 PM

INTERSTATE COMMERCE COMMISSION

The Denver and Rio Grande Western Railroad Company
Dated as of April 15, 1979
9.00% Conditional Sale Indebtedness

Dear Sir:

Pursuant to 49 U.S.C. § 11303(a) and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of the Denver and Rio Grande Western Railroad Company for filing and recordation counterparts of the following documents:

1(a) Conditional Sale Agreement dated as of April 15, 1979, among Exchange National Bank of Chicago, as Trustee, North American Car Corporation and Pullman Incorporated;

(b) Agreement and assignment dated as of April 15, 1979, among North American Car Corporation, Pullman Incorporated and LaSalle National Bank, as Agent;

2(a) Lease of Railroad Equipment dated as of April 15, 1979, between the Denver and Rio Grande Western Railroad Company and Exchange National Bank of Chicago, as Trustee;

New no.
John [Signature]

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RECEIVED

(b) Assignment of Lease and Agreement dated as of April 15, 1979, between Exchange National Bank of Chicago, as Trustee, and LaSalle National Bank, as Agent.

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

(1) Agent-Vendor-Assignee:

LaSalle National Bank
135 South LaSalle Street
Chicago, Illinois 60690

(2) Trustee-Vendee-Lessor:

Exchange National Bank of Chicago
130 South LaSalle Street
Chicago, Illinois 60690

(3) Builder

Pullman Incorporated
200 South Michigan Avenue
Chicago, Illinois 60604

(4) Lessee:

The Denver and Rio Grande Western
Railroad Company
1515 Arapahoe Street
Denver, Colorado 80217

(5) Vendor:

North American Car Corporation
222 South Riverside Plaza
Chicago, Illinois 60606

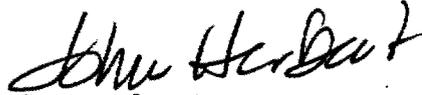
Please file and record the documents referred to in this letter and cross-index them under the names of the Agent-Vendor-Assignee, the Trustee-Vendee-Lessor, the Builder, the Vendor and the Lessee.

The equipment covered by the aforementioned documents consists of 150 4,750 cu. ft. covered hopper cars bearing the following road numbers of the railroad: 10850 through 10999 inclusive.

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

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

Very truly yours,



John S. Herbert
As Agent for the Denver and Rio
Grande Western Railroad Company

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

Encls.

10322
RECORDATION NO. 1425

APR 27 1979 4 35 PM

INTERSTATE COMMERCIAL COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of April 15, 1979

among

EXCHANGE NATIONAL BANK OF CHICAGO,
as Owner Trustee,

NORTH AMERICAN CAR CORPORATION

and

PULLMAN INCORPORATED
(Pullman Standard Division)

9% Conditional Sale Indebtedness Due 1994
[covering 150-4,750 cu. ft. covered hopper cars]

CONDITIONAL SALE AGREEMENT

Table of Contents

	<u>Page</u>
Article 1. Assignment; Definitions	C-1
Article 2. Construction and Sale	C-2
Article 3. Inspection and Delivery	C-3
Article 4. Purchase Price and Payment	C-4
Article 5. Security Interest in the Equipment	C-9
Article 6. Taxes	C-10
Article 7. Maintenance; Casualty Occurrences; Insurance	C-11
Article 8. Reports and Inspections	C-13
Article 9. Marking of Equipment	C-13
Article 10. Compliance with Law and Rules	C-14
Article 11. Possession and Use	C-15
Article 12. Prohibition Against Liens	C-15
Article 13. Indemnities and Warranties	C-16
Article 14. Assignments	C-17
Article 15. Defaults	C-19
Article 16. Remedies	C-21
Article 17. Applicable State Laws	C-25
Article 18. Recording	C-26
Article 19. Article Headings; Effect and Modification of Agreement	C-26
Article 20. Notice	C-27
Article 21. Immunities; Satisfaction of Undertakings	C-27
Article 22. Law Governing	C-28
Article 23. Execution	C-29
Schedule I--Amortization of CSA Indebtedness	
Annex A--Information Relating to Building of Equipment	
Annex B--Schedule of Equipment	
Annex C--Lease	
Annex D--Lease Assignment and Consent	

CONDITIONAL SALE AGREEMENT dated as of April 15, 1979, among PULLMAN INCORPORATED (Pullman Standard Division), a Delaware corporation (the "Builder"), NORTH AMERICAN CAR CORPORATION, a Delaware corporation ("NAC" or the "Vendor" as more particularly set forth in Article 1 hereof), and EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association (the "Vendee"), acting not in its individual capacity but solely as trustee under a trust agreement (the "Trust Agreement") dated as of the date hereof with Republic National Leasing Corporation (the "Beneficiary").

WHEREAS the Builder agrees to construct, sell and deliver to NAC, the railroad equipment described in Annex B hereto (the "Equipment") and NAC agrees to purchase the Equipment from the Builder and conditionally sell the Equipment to the Vendee; and

WHEREAS the Vendee is entering into a Lease of Railroad Equipment dated as of the date hereof with The Denver and Rio Grande Western Railroad Company (the "Lessee"), in substantially the form annexed hereto as Annex C (the "Lease"); and

WHEREAS La Salle National Bank (the "Assignee" or the "Vendor") is acting as agent for certain institutional investors (the "Investors") pursuant to the Participation Agreement dated as of the date hereof (the "Participation Agreement"), among the Assignee, the Lessee, the Beneficiary, the Vendee, NAC and the Investors;

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

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

Assignee, as agent (the "Assignment"). The parties hereto further contemplate that NAC shall pay to the Builder NAC's Purchase Price (as hereinafter defined) pursuant to the terms of Article 4 hereof.

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

In case of such assignment, the Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, certain of the rights, title, and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease and Agreement in the form of Annex D hereto (the "Lease Assignment") and the Lessee shall consent thereto pursuant to a Consent and Agreement in the form attached to Annex D (the "Consent").

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Annex B hereto, and will sell and deliver to NAC, and NAC will purchase from the Builder and accept delivery of and pay for (as hereinafter provided) and sell and deliver to the Vendee, and the Vendee will purchase from NAC and accept delivery of and pay for, the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing among the Builder, the Vendee and the Lessee (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads

reasonably interpreted as being applicable to railroad equipment of the character of such unit, and each such unit will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. The Builder will deliver to NAC and NAC will deliver to the Vendee, the units of Equipment, at the place specified in Annex B hereto (or if Annex B does not specify a place, at the place designated by the Vendee), freight and storage charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that no delivery of any unit of Equipment to NAC or to the Vendee shall be made until this Agreement and the Lease have been filed pursuant to 49 U.S.C. § 11303. All of the units of Equipment shall be delivered to NAC and the Vendee at the same time (the date of such delivery being hereinafter called the "Delivery Date").

Any unit of Equipment not delivered to NAC and the Vendee on the earlier of the Delivery Date or May 30, 1979, shall be excluded from this Agreement and NAC and the Vendee shall be relieved of their respective obligations hereunder to purchase and pay for such unit of Equipment. If any unit of Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the Vendee, NAC and the Builder (and any assignee of the Builder) shall execute an agreement supplemental hereto limiting this Agreement to the units of Equipment not so excluded herefrom. Pursuant to the Participation Agreement NAC has agreed to purchase such excluded Equipment and any Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof from the Builder, upon the satisfaction or waiver of any conditions of the Purchase Order (as defined in the Participation Agreement), all as provided in Paragraph 1 of the Participation Agreement. The Vendee agrees, upon any such exclusion, to take such steps, including the execution of instruments of transfer, as it may be reasonably requested by NAC for the purpose of acknowledging and perfecting the interest of NAC in any unit of Equipment so excluded from this Agreement, and the Vendee shall have no further obligation or liability in respect of units so excluded.

The respective obligations of the Builder and NAC as to the time of delivery set forth in Annex B is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God,

acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who may be employees of the Lessee) and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Prior to delivery to NAC and to the Vendee each unit of the Equipment shall be presented to an inspector of NAC or the Vendee, as the case may be, for inspection at the place specified for delivery or at the Builder's plant specified in Annex B hereto, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of NAC or of the Vendee, as the case may be, (who may be an employee of the Lessee) shall execute and deliver to the Builder and NAC, as the case may be, a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Vendee and NAC, as the case may be, and are marked in accordance with Article 9 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 13 hereof. The Vendee and NAC hereby appoint the Lessee (and any employee thereof designated by the Lessee) their respective agent for inspection and acceptance of the Equipment pursuant to this Article 3.

On delivery to and acceptance by NAC or the Vendee, as the case may be, of the Equipment at the place specified for delivery, the Builder and NAC, as the case may be, shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of the Equipment; provided, however, that delivery to and acceptance by either NAC or the Vendee shall not thereby relieve the Builder of its warranty referred to in Article 13 hereof.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment to be paid by the Vendee to NAC are set forth in Annex B hereto. Such base price or prices are subject to such increase or

decrease only as is agreed to in writing by NAC, the Vendee and the Lessee. The term "Vendee's Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in NAC's invoice or invoices delivered to the Vendee and, if the Vendee's Purchase Price is other than the base price or prices set forth in Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Vendee (such invoice or invoices being hereinafter called "NAC's Invoice"). The base price or prices per unit of the Equipment to be paid by NAC to the Builder are as set forth in the Purchase Order. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder and NAC. The term "NAC's Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the Builder's invoice or invoices delivered to NAC and, if NAC's Purchase Price is other than the base price or prices set forth in the Purchase Order, the Builder's invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of NAC (such invoice or invoices hereinafter called the "Builder's Invoice"). If on the Delivery Date (as hereinafter defined in this Article) the aggregate Vendee's Purchase Price of Equipment for which settlement is then being made under this Agreement would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as the Vendee may at its option agree to prior to delivery of any unit or units of Equipment that, but for such agreement, would be excluded from this Agreement), the Builder, NAC (and any assignee of NAC) and the Vendee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee, as will, after giving effect to such exclusion, reduce such aggregate Vendee's Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as aforesaid) and the Vendee shall have no further obligation or liability with respect to such excluded units under this Agreement. Notwithstanding anything to the contrary contained herein, the Maximum Purchase Price specified in Item 4 of Annex A hereto shall not be increased without the agreement of each party to the Participation Agreement.

The Equipment shall be settled for in one group of units of the Equipment delivered to and accepted by each of NAC and the Vendee as is provided in Item 2 of Annex A hereto (such group being hereinafter called the Group). The term "Delivery Date" with respect to the Group shall mean

such business day (not later than May 30, 1979, such date being herein called the "Cut-Off Date"), occurring not more than 10 business days following presentation by the Builder to NAC of the Builder's Invoice, and by NAC to the Vendee of NAC's Invoice (with copies to the Lessee) and by the Builder and NAC to NAC and the Vendee, as the case may be, of the Certificate or Certificates of Acceptance for the Group, as shall be fixed by the Lessee by notice delivered to NAC, the Vendee and the Assignee at least four days prior to the Delivery Date designated therein.

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

(a) on the Delivery Date with respect to the Group an amount equal to (i) 23.351% of the aggregate Vendee's Purchase Price of the Group up to the Maximum Purchase Price, plus (ii), to the extent the Vendee shall have agreed, any amount by which the aggregate Vendee's Purchase Price exceeds the Maximum Purchase Price; and

(b) in 179 monthly installments, as hereinafter provided, an amount equal to the aggregate Vendee's Purchase Price of the units of Equipment for which settlement is made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

NAC hereby acknowledges itself to be indebted to the Builder in the amount of, and hereby promises to pay in full in cash to the Builder, on the Delivery Date with respect to the Group, at such place as the Builder may designate, NAC's Purchase Price; provided, however, that NAC shall have no obligation to accept delivery of and to pay for the Equipment unless it shall have received on the Delivery Date payments from the Vendee and the Agent in an aggregate amount equal to the Vendee's Purchase Price.

The portion of the Vendee's Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (herein called the "CSA Indebtedness") shall be payable (i) on the date corresponding to the Delivery Date in the month following the month in which the Delivery Date occurred and (ii) on the corresponding date in each of the next succeeding

178 consecutive months (each of such 179 dates being hereinafter called a "Payment Date"). The unpaid balance of the CSA Indebtedness payable in installments on each Payment Date shall bear interest from the Delivery Date in respect of which such CSA Indebtedness was incurred at the rate of 9% per annum. The installments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto. The Vendee will furnish to the Vendor and the Lessee promptly after the Delivery Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of 12 30-day months.

If any Payment Date referred to above is not a business day, the payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois, are authorized or obligated to remain closed.

The Vendee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 10.00% per annum.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, and shall be made by wire transfer of Federal or other immediately available funds not later than 11:00 a.m., local time, in the city where payable. Except as provided in Article 7 hereof, the Vendee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 15 and 16 hereof), but not limiting the effect of Article 21 hereof, it is understood and agreed by the Builder

and the Vendor that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, including any liability arising out of or in connection with the performance of its obligations hereunder (excluding only the obligations set forth in subparagraph (a) of the third paragraph of this Article 4 and the proviso in the third paragraph of Article 12 hereof) shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Vendee only to the extent that the Vendee or any assignee of the Vendee shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. Except as provided in the next preceding sentence, the Vendor and the Builder agree that the Vendee shall have no personal liability to make any payments under this Agreement except from the "income and proceeds from the Equipment". In addition, the Vendor and the Builder agree that the Vendee (i) makes no representation or warranty, and is not responsible for, the execution, validity, sufficiency or enforceability of the Lease insofar as it relates to the Lessee (or any document relative thereto) or of any of the Lessee's obligations thereunder and (ii) shall not be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease or the Consent; it being understood that as to all such matters the Vendor and the Builder will look solely to the rights of the Vendor and the Builder under this Agreement against the Equipment and to the Vendor's rights under the Lease against the Lessee and the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 15 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 10 or any other provision of the Lease and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly

received by the Vendee or any assignee of the Vendee and as shall equal the portion of the CSA Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include (x) amounts referred to in the foregoing clauses (a) and (b) received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease or (y) payments by the Lessee to the Vendee or the Beneficiary pursuant to §§ 6, 9 and 17 of the Lease (except to the extent that the Vendee is obligated to indemnify the Vendor or the Builder under Articles 6 and 13 hereof). Notwithstanding anything to the contrary contained in Article 15 or 16 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment or the Vendee's interest in the Lease (except such payments as are described in clause (y) above) for the full unpaid Vendee's Purchase Price of the Equipment and accrued interest thereon and all other payments and obligations hereunder.

ARTICLE 5. Security Interest in the Equipment.

The Vendor shall and hereby does retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease.

Except as otherwise specifically provided in Arti-

cle 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Vendee's Purchase Price of the Equipment, together with accrued interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will, at the Vendee's expense, (a) execute a bill or bills of sale for the Equipment releasing its security interest therein to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Vendee at its address referred to in Article 20 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, Federal or foreign taxes (other than gross receipts taxes [except gross receipts taxes in the nature of or in lieu of sales or use or rental taxes], taxes measured by net income, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all

such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "impositions"), all of which such impositions the Vendee assumes and agrees to pay on demand in addition to the Vendee's Purchase Price of the Equipment. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Vendor by reason of its ownership thereof (except as provided above) and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the security interest of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it or the Lessee is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest or property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved in writing the payment thereof.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Vendee agrees that, at Vendee's own cost and expense, it will be responsible for ordinary maintenance and repairs required to maintain and keep all of the units of Equipment which are subject to this Agreement in good operating order, repair and condition and eligible for interchange service.

In the event that any unit of the Equipment shall be or become worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise by the United States Government or any political subdivision thereof for a stated period which shall exceed the remaining term of this Agreement or for an indefinite period, but only when such period shall exceed the term hereof, or by any other governmental entity

resulting in loss of possession by the Lessee for a period of 90 consecutive days (such occurrences being herein called "Casualty Occurrences"), the Vendee shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of interest on the CSA Indebtedness (each such date being hereinafter called a "Casualty Payment Date"), the Vendee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of the interest and principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each installment, the CSA Indebtedness and the Vendee will promptly furnish to the Vendor a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendor may request. In the event of the requisition for use (which is not a Casualty Occurrence) by the United States Government or any political subdivision thereof of any unit of the Equipment, all of the Vendee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

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

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

ment of the Vendee's Purchase Price in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original Vendee's Purchase Price of such unit bears to the aggregate original Vendee's Purchase Price of the Equipment.

If the Vendor shall receive from the Lessee's insurance coverage any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence, the Vendor shall, subject to the Vendor having received payment of the Casualty Value hereunder, pay such insurance proceeds or condemnation payments to the Vendee. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of the Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon reasonable proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. Reports and Inspections. On or before April 30 in each year, commencing with the year 1980, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment then subject to this Agreement, the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 9 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 9. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the road number of the Lessee as set forth in Annex B hereto, or, in the case of Equipment not there listed, such road number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in let-

ters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed with the Interstate Commerce Commission", or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

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

ARTICLE 10. Compliance with Laws and Rules.
During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, and with all applicable interchange rules, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or modification of or to any part on any unit of the Equipment, the Vendee will conform therewith at its own expense; provided, however, that the Vendee or the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 11. Possession and Use. The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by NAC to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The parties hereto acknowledge that the Vendee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor, it being understood and agreed that such consent shall not be unreasonably withheld for changes in the provisions of the Lease which are not intended or necessary to satisfy the obligations of the Vendee under the CSA.

ARTICLE 12. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the Vendee's interests in the Lease and the payments to be made thereunder equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of such liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

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

The foregoing provisions of this Article 12 shall

be subject to the limitations set forth in the last paragraph of Article 4 hereof and the provisions of Article 21 hereof; provided, however, that the Vendee will pay or discharge any and all claims, liens, charges or security interests claimed by any party from, through or under the Vendee or the Beneficiary or their successors or assigns, not arising out of the transactions contemplated hereby (but including tax liens arising out of the receipt of the rentals and other payments under the Lease and any other proceeds from the Equipment), equal or superior to the Vendor's security interest therein, which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the Vendee's or the Beneficiary's interests in the Lease and the payments to be made thereunder, but the Vendee shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement or in and to the Lease and the payments to be made thereunder.

ARTICLE 13. Indemnities and Warranties. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims (including, without limitation, claims for strict liability in tort) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention by the Vendor of title to or a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any accident in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except however, in the case of the Builder, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Vendee's Purchase Price of,

and the release of the security interest in, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

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

The Builder represents and warrants to NAC and the Vendee and their respective successors and assigns that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, NAC will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

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

NAC represents and warrants to the Vendee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Vendee will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

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

ARTICLE 14. Assignments. The Vendee will not (a) except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Vendor hereunder and (ii) is permitted by, and in accordance with the terms of Article VII of the

Trust Agreement. Any such sale, assignment, transfer or disposition which may be made by the Vendee to a vendee, assignee or transferee shall be subject to the assumption by such party of all of the obligations of the Vendee hereunder.

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

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

The Vendee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Vendee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to the entire unpaid indebtedness in respect of the Vendee's Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of

NAC or the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Lessee by NAC or the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Lessee, as the case may be, against and only against NAC or the Builder, as the case may be.

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

(a) the Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) and such default shall continue for ten business days after the date such payment is due and payable; or

(b) the Vendee (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) or the Lessee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a petition for reorganization under the Federal Bankruptcy Act, as now constituted or as it may be hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Lease and the Consent shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 60 days after the

commencement of the case; or

(d) any proceeding shall be commenced by or against the Vendee, the Beneficiary or the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations hereunder or under the Lease, the Lease Assignment, the Consent or the Participation Agreement of the Vendee, any Beneficiary or the Lessee, as the case may be), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee, the Beneficiary or the Lessee under this Agreement, the Lease, the Lease Assignment, the Consent and/or the Participation Agreement, as the case may be, shall not have been (and shall not continue to be), duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Vendee, the Beneficiary or the Lessee, as the case may be, or for its or their property in connection with any such proceedings in such manner that such obligations have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

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

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) cause the Lease immediately upon such notice to terminate (and the Vendee acknowledges the right of the Vendor to terminate the Lease), but without affecting the indemnities which by the provisions of the Lease survive its termination and/or (ii) declare (a "Declaration of Default") the entire

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

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

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Vendee or any other person and for such purpose may enter upon the premises of the Vendee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee, subject to all mandatory requirements of due process

of law.

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

(a) forthwith and in the usual manner cause the Equipment to be placed upon such storage tracks of the Lessee or any of its affiliates as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks (or if the storage of the Equipment on such tracks for a period in excess of 60 days would materially impair the Lessee's ability to perform its obligations as a common carrier by rail, on such other tracks of the Lessee as shall be reasonably satisfactory to the Vendor) at the risk of the Vendee without charge for rent or storage until the Equipment has been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the Equipment to be transported to any reasonable place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Vendor, but only in such manner as shall not materially impair the ability of the Lessee to perform its obligations as a common carrier by rail.

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

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, at its election and upon such notice as is hereinafter set

forth, retain the Equipment in satisfaction of the entire CSA Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Lessee by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee or for its account may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Vendee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Lessee or any other party claiming from, through or under the Vendee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and

unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Vendee or the Lessee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale or the making of a contract for such sale not less than ten days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Vendee to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee or the Lessee (except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

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

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

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

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

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

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable Federal

law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement, except such portion as relates to the sale of the Equipment by the Builder to NAC, shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 18. Recording. The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed in accordance with 49 U.S.C. § 11303; and the Vendee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

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

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

the Vendee and, if such variation or modification shall adversely affect its interests hereunder, the Builder.

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

(a) to the Lessee, at One Park Central, 1515 Arapahoe Street, Denver, Colorado 80217, Attention of Manager of Equipment Planning,

(b) to the Vendee, at 130 South La Salle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department,

(c) to the Assignee, at 135 South La Salle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department,

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

(e) to NAC, at 222 South Riverside Plaza, Chicago, Illinois 60606, Attention of Vice President-Law,

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

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

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

The obligations of the Vendee under the second paragraph of Article 16 and under Articles 3, 6, 7 (other

than the second and third sentences of the second paragraph thereof), 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

It is expressly understood, anything in this Agreement to the contrary notwithstanding, that each of the warranties, representations, undertakings and agreements herein made on the part of the Vendee are made and intended not as personal warranties, representations, undertakings and agreements by Exchange National Bank of Chicago or for the purpose or with the intention of binding said national association personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement and this Agreement is executed and delivered by said national association not in its own right but solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and except in the case of wilful misconduct or gross negligence, no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said national association or the Beneficiary (except, with respect to each such party, in connection with the payment or discharge of claims, liens, charges or security interests claimed from, through or under such party or its successors and assigns pursuant to the proviso to the last paragraph of Article 12 of this Agreement and except, with respect to the Beneficiary, pursuant to Section 1.03 and the last paragraph of Section 5.01 of the Trust Agreement), on account of this Agreement or on account of any warranty, representation, undertaking or agreement of said national association or the Beneficiary hereunder, either expressed or implied, all such personal liability (except as aforesaid), if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor.

ARTICLE 22. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303, and such additional rights arising out of the filing, recording or depositing hereof, if

any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited. The Vendee warrants that its principal place of business is located in the State of Illinois.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, such counterparts together constituting but one and the same contract, but the counterpart delivered to the Assignee pursuant to the Assignment shall be deemed the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

PULLMAN INCORPORATED
(Pullman Standard Division),

by

E. J. [Signature]
Vice President ~~Flight Unit~~

[Corporate Seal]

Attest:

William [Signature]
Assistant Secretary

EXCHANGE NATIONAL BANK OF CHICAGO,
not in its individual capacity
but solely as Trustee,

by

[Seal]

Attest:

NORTH AMERICAN CAR CORPORATION,

by

[Corporate Seal]

Attest:

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

On this 25 day of April 1979, before me personally appeared E. J. Adquist, to me personally known, who, being by me duly sworn, says that he is Vice President-~~Freight Unit~~ of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Janice K. Reuter
Notary Public

[Notarial Seal]

My Commission expires 8-11-79

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

On this _____ day of _____, 1979, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is _____ of EXCHANGE NATIONAL BANK OF CHICAGO, that one of the seals affixed to the foregoing instrument is the 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.

Notary Public

[Notarial Seal]

My Commission expires _____

SCHEDULE I

Allocation Schedule of Each \$1,000,000
of 9.00% CSA Indebtedness Payable in Installments

<u>Payment No.</u>	<u>Principal Recovery</u>	<u>Interest Payment</u>	<u>Debt Service</u>	<u>Remaining Principal Balance</u>
1	\$3,589.51	\$7,500.00	\$11,089.51	\$996,410.49
2	3,616.43	7,473.08	11,089.51	992,794.05
3	3,643.56	7,445.96	11,089.51	989,150.50
4	3,670.88	7,418.63	11,089.51	985,479.61
5	3,698.41	7,391.10	11,089.51	981,781.20
6	3,726.15	7,363.36	11,089.51	978,055.05
7	3,754.10	7,335.41	11,089.51	974,300.95
8	3,782.25	7,307.26	11,089.51	970,518.69
9	3,810.62	7,278.89	11,089.51	966,708.07
10	3,839.20	7,250.31	11,089.51	962,868.87
11	3,868.00	7,221.52	11,089.51	959,000.87
12	3,897.01	7,192.51	11,089.51	955,103.87
13	3,926.23	7,163.28	11,089.51	951,177.63
14	3,955.68	7,133.83	11,089.51	947,221.96
15	3,985.35	7,104.16	11,089.51	943,236.61
16	4,015.24	7,074.27	11,089.51	939,221.37
17	4,045.35	7,044.16	11,089.51	935,176.02
18	4,075.69	7,013.82	11,089.51	931,100.33
19	4,106.26	6,983.25	11,089.51	926,994.07
20	4,137.06	6,952.46	11,089.51	922,857.01
21	4,168.08	6,921.43	11,089.51	918,688.93
22	4,199.34	6,890.17	11,089.51	914,489.58
23	4,230.84	6,858.67	11,089.51	910,258.74
24	4,262.57	6,826.94	11,089.51	905,996.17
25	4,294.54	6,794.97	11,089.51	901,701.63
26	4,326.75	6,762.76	11,089.51	897,374.88
27	4,359.20	6,730.31	11,089.51	893,015.68
28	4,391.89	6,697.62	11,089.51	888,623.79
29	4,424.83	6,664.68	11,089.51	884,198.95
30	4,458.02	6,631.49	11,089.51	879,740.93
31	4,491.45	6,598.06	11,089.51	875,249.48
32	4,525.14	6,564.37	11,089.51	870,724.34
33	4,559.08	6,530.43	11,089.51	866,165.26
34	4,593.27	6,496.24	11,089.51	861,571.98
35	4,627.72	6,461.79	11,089.51	856,944.26
36	4,662.43	6,427.08	11,089.51	852,281.83
37	4,697.40	6,392.11	11,089.51	847,584.43

SCHEDULE I (Cont'd.)

<u>Payment No.</u>	<u>Principal Recovery</u>	<u>Interest Payment</u>	<u>Debt Service</u>	<u>Remaining Principal Balance</u>
38	4,732.63	6,356.88	11,089.51	842,851.81
39	4,768.12	6,321.39	11,089.51	838,083.68
40	4,803.88	6,285.63	11,089.51	833,279.80
41	4,839.91	6,249.60	11,089.51	828,439.88
42	4,876.21	6,213.30	11,089.51	823,563.67
43	4,912.78	6,176.73	11,089.51	818,650.89
44	4,949.63	6,139.88	11,089.51	813,701.26
45	4,986.75	6,102.76	11,089.51	808,714.51
46	5,024.15	6,065.36	11,089.51	803,690.35
47	5,061.83	6,027.68	11,089.51	798,628.52
48	5,099.80	5,989.71	11,089.51	793,582.72
49	5,138.05	5,951.47	11,089.51	788,390.67
50	5,176.58	5,912.93	11,089.51	783,214.09
51	5,215.41	5,874.11	11,089.51	777,998.69
52	5,254.52	5,834.99	11,089.51	772,744.16
53	5,293.93	5,795.58	11,089.51	767,450.23
54	5,333.64	5,755.88	11,089.51	762,116.60
55	5,373.64	5,715.87	11,089.51	756,742.96
56	5,413.94	5,675.57	11,089.51	751,329.02
57	5,454.54	5,634.97	11,089.51	745,874.48
58	5,495.45	5,594.06	11,089.51	740,379.02
59	5,536.67	5,552.84	11,089.51	734,842.35
60	5,578.19	5,511.32	11,089.51	729,264.16
61	5,620.03	5,469.48	11,089.51	723,644.13
62	5,662.18	5,427.33	11,089.51	717,981.95
63	5,704.65	5,384.86	11,089.51	712,277.30
64	5,747.43	5,342.08	11,089.51	706,529.87
65	5,790.54	5,298.97	11,089.51	700,739.33
66	5,833.97	5,255.54	11,089.51	694,905.36
67	5,877.72	5,211.79	11,089.51	689,027.64
68	5,921.80	5,167.71	11,089.51	683,105.84
69	5,966.22	5,123.29	11,089.51	677,139.62
70	6,010.96	5,078.55	11,089.51	671,128.65
71	6,056.05	5,033.46	11,089.51	665,072.61
72	6,101.47	4,988.04	11,089.51	658,971.14
73	6,147.23	4,942.28	11,089.51	652,823.91
74	6,193.33	4,896.18	11,089.51	646,630.58
75	6,239.78	4,849.73	11,089.51	643,390.80
76	6,286.58	4,802.93	11,089.51	634,104.22
77	6,333.73	4,755.78	11,089.51	627,770.48
78	6,381.23	4,708.28	11,089.51	621,389.25

SCHEDULE I (Cont'd.)

<u>Payment No.</u>	<u>Principal Recovery</u>	<u>Interest Payment</u>	<u>Debt Service</u>	<u>Remaining Principal Balance</u>
79	6,429.09	4,660.42	11,089.51	614,960.16
80	6,477.31	4,612.20	11,089.51	608,482.85
81	6,525.89	4,563.62	11,089.51	601,956.96
82	6,452.81	4,514.68	10,967.49	595,504.14
83	6,501.21	4,466.28	10,967.49	589,002.93
84	6,549.97	4,417.52	10,967.49	582,452.96
85	6,599.09	4,368.40	10,967.49	575,853.87
86	6,648.59	4,318.90	10,967.49	569,205.28
87	6,698.45	4,269.04	10,967.49	562,506.83
88	6,748.69	4,218.80	10,967.49	555,758.14
89	6,799.31	4,168.19	10,967.49	548,958.83
90	6,850.30	4,117.19	10,967.49	542,108.53
91	6,901.68	4,065.81	10,967.49	535,206.86
92	6,953.44	4,014.05	10,976.49	528,253.41
93	7,005.59	3,961.90	10,967.49	521,247.82
94	7,058.13	3,909.36	10,967.49	514,189.69
95	7,111.07	3,856.42	10,967.49	507,078.62
96	7,164.40	3,803.09	10,967.49	499,914.22
97	7,218.13	3,749.36	10,967.49	492,696.08
98	7,272.27	3,695.22	10,967.49	485,423.81
99	7,326.81	3,640.68	10,967.49	478,097.00
100	7,381.76	3,585.73	10,967.49	470,715.24
101	7,437.13	3,530.36	10,967.49	463,278.11
102	7,492.91	3,474.59	10,967.49	455,785.20
103	7,549.10	3,418.39	10,967.49	448,236.10
104	7,605.72	3,361.77	10,967.49	440,630.38
105	7,662.76	3,304.73	10,967.49	432,967.62
106	5,995.82	3,247.26	9,243.07	426,971.80
107	6,040.79	3,202.29	9,243.07	420,931.01
108	6,086.09	3,156.98	9,243.07	414,844.92
109	6,131.74	3,111.34	9,243.07	408,713.18
110	6,177.73	3,065.35	9,243.07	402,535.46
111	6,224.06	3,019.02	9,243.07	396,311.40
112	6,270.74	2,972.34	9,243.07	390,040.66
113	6,317.77	2,925.30	9,243.07	383,722.89
114	6,365.15	2,877.92	9,243.07	377,357.74
115	6,412.89	2,830.18	8,243.07	370,944.84
116	6,460.99	2,782.09	9,243.07	364,483.85
117	6,509.45	2,733.63	9,243.07	357,974.41
118	6,558.27	2,684.81	9,243.07	351,416.14
119	6,607.45	2,635.62	9,243.07	344,808.69

SCHEDULE I (Cont'd.)

<u>Payment No.</u>	<u>Principal Recovery</u>	<u>Interest Payment</u>	<u>Debt Service</u>	<u>Remaining Principal Balance</u>
120	6,657.01	2,586.07	9,243.07	338,151.68
121	6,706.94	2,536.14	9,243.07	331,444.74
122	6,757.24	2,485.84	9,243.07	324,687.50
123	6,807.92	2,435.16	9,243.07	317,879.58
124	6,858.98	2,384.10	9,243.07	311,020.61
125	6,910.42	2,332.65	9,243.07	304,110.19
126	6,962.25	2,280.83	9,243.07	297,147.94
127	7,014.47	2,228.61	9,243.07	290,133.47
128	7,067.07	2,176.00	9,243.07	283,066.40
129	7,120.08	2,123.00	9,243.07	275,946.32
130	5,494.07	2,069.60	7,563.66	270,452.26
131	5,535.27	2,028.39	7,563.66	264,916.98
132	5,576.79	1,986.88	7,563.66	259,340.20
133	5,618.61	1,945.05	7,563.66	253,721.58
134	5,660.75	1,902.91	7,563.66	248,060.83
135	5,703.21	1,860.46	7,563.66	242,357.62
136	5,745.98	1,817.68	7,563.66	236,611.64
137	5,789.08	1,774.59	7,563.66	230,822.57
138	5,832.49	1,731.17	7,563.66	224,990.07
139	5,876.24	1,687.43	7,563.66	219,113.83
140	5,920.31	1,643.35	7,563.66	213,193.52
141	5,964.71	1,598.95	7,563.66	207,228.81
142	6,009.45	1,554.22	7,563.66	201,219.36
143	6,054.52	1,509.15	7,563.66	195,164.84
144	6,099.93	1,463.74	7,563.66	189,064.92
145	6,145.68	1,417.99	7,563.66	182,919.24
146	6,191.77	1,371.89	7,563.66	176,727.47
147	6,238.21	1,325.46	7,563.66	170,489.26
148	6,284.99	1,278.67	7,563.66	164,204.27
149	6,332.13	1,231.53	7,563.66	157,872.14
150	6,379.62	1,184.04	7,563.66	151,492.51
151	6,427.47	1,136.19	7,563.66	145,065.04
152	6,475.68	1,087.99	7,563.66	138,589.37
153	6,524.24	1,039.42	7,563.66	132,065.12
154	4,619.23	990.49	5,609.72	127,445.89
155	4,653.88	955.84	5,609.72	122,792.01
156	4,688.78	920.94	5,609.72	118,103.23
157	4,723.95	885.77	5,609.72	113,379.28
158	4,759.38	850.34	5,609.72	108,619.91
159	4,795.07	814.65	5,609.72	103,824.84

SCHEDULE I (Cont'd.)

<u>Payment No.</u>	<u>Principal Recovery</u>	<u>Interest Payment</u>	<u>Debt Service</u>	<u>Remaining Principal Balance</u>
160	4,831.04	778.69	5,609.72	98,993.80
161	4,867.27	742.45	5,609.72	94,126.53
162	4,903.77	705.95	5,609.72	89,222.76
163	4,940.55	669.17	5,609.72	84,282.21
164	4,977.60	632.12	5,609.72	79,304.60
165	5,014.94	594.78	5,609.72	74,289.67
166	5,052.55	557.17	5,609.72	69,237.12
167	5,090.44	519.28	5,609.72	64,146.68
168	5,128.62	481.10	5,609.72	59,018.05
169	5,167.09	442.64	5,609.72	53,850.97
170	5,205.84	403.88	5,609.72	48,645.13
171	5,244.88	364.84	5,609.72	43,400.25
172	5,284.22	325.50	5,609.72	38,116.03
173	5,323.85	285.87	5,609.72	32,792.17
174	5,363.78	245.94	5,609.72	27,428.39
175	5,404.01	205.71	5,609.72	22,024.39
176	5,444.54	165.18	5,609.72	16,579.85
177	5,485.37	124.35	5,609.72	11,094.47
178	5,526.51	83.21	5,609.72	5,567.96
179	5,567.96	41.76	5,609.72	-0-
	<u>\$1,000,000.00</u>	<u>\$710,684.75</u>	<u>\$1,710,684.75</u>	

Annex A
to
Conditional Sale Agreement

- Item 1: Pullman Incorporated (Pullman Standard Division), a Delaware corporation, 200 South Michigan Avenue, Chicago, Illinois 60604.
- Item 2: The Equipment shall be settled for in not more than one Group of units of Equipment delivered to and accepted by NAC and the Vendee unless a greater number shall be agreed to by the parties hereto.
- Item 3: (a) Pullman Incorporated (Pullman Standard Division) ("Pullman") warrants to NAC and the Vendee that the Equipment will be built in accordance with the Specifications and requirements set forth in Article 2 of this Agreement. Pullman further warrants that the Equipment will be free from defects in material (except as to items or specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by Pullman) and workmanship under normal use and service. Pullman's obligation under this Item 3(a) is limited to making good at its factory any part or parts of any unit of such Equipment that shall be returned to Pullman with transportation charges prepaid and which Pullman's examination shall disclose to its satisfaction to have been defective; provided, however, that this warranty will be subject to the following limitations:
(i) warranty coverage on running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever occurs first; and
(ii) normal use and service is deemed to require inspection, adjustment, maintenance and compliance with Pullman's written instructions and any applicable Federal, state or local laws or regulations.

Pullman MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. The rights of NAC and the Vendee under the foregoing warranty shall be their sole and exclusive remedy and Pullman will have no liability for lost profits or for indirect, incidental, consequential or commercial

losses. This warranty is expressly in lieu of all other warranties expressed or implied on the part of Pullman, except for its obligations and liabilities under Articles 2, 3, 4 and 13 of this Agreement and Item 3(b) below. Pullman neither assumes nor authorizes any person to assume for it any other warranty liability in connection with the construction and delivery of the Equipment.

Pullman further agrees that NAC and the Vendee as well as Pullman may to the extent permitted by law take and prosecute claims against vendors of specialties purchased by Pullman for incorporation in the Equipment manufactured by Pullman for the breach of any warranty by the vendors with respect to such specialties. Pullman, NAC and the Vendee each agrees to notify the others prior to the assertion of any claim by them against any such vendors of specialties. If Pullman determines that it has no interest in any such claim asserted by the Vendee, Pullman agrees to assign to the Vendee, solely for the purpose of making and prosecuting any such claim, all the rights which Pullman has against such vendor for the breach of warranty or other representation respecting the Equipment manufactured by it. The word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

Pullman further agrees with NAC and the Vendee that neither the inspections provided for in Article 3 of this Agreement, nor any examination, nor the acceptance of any units of its Equipment as provided in said Article 3 shall be deemed a waiver or a modification by NAC or the Vendee of any of their rights under this Item 3(a).

(b) Except in case of designs, processes or combinations specified by the Lessee and not developed or purported to be developed by Pullman, and articles and materials specified by the Lessee and not manufactured by Pullman, Pullman agrees to indemnify, protect and hold harmless the Lessee, the Vendee and NAC from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner

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

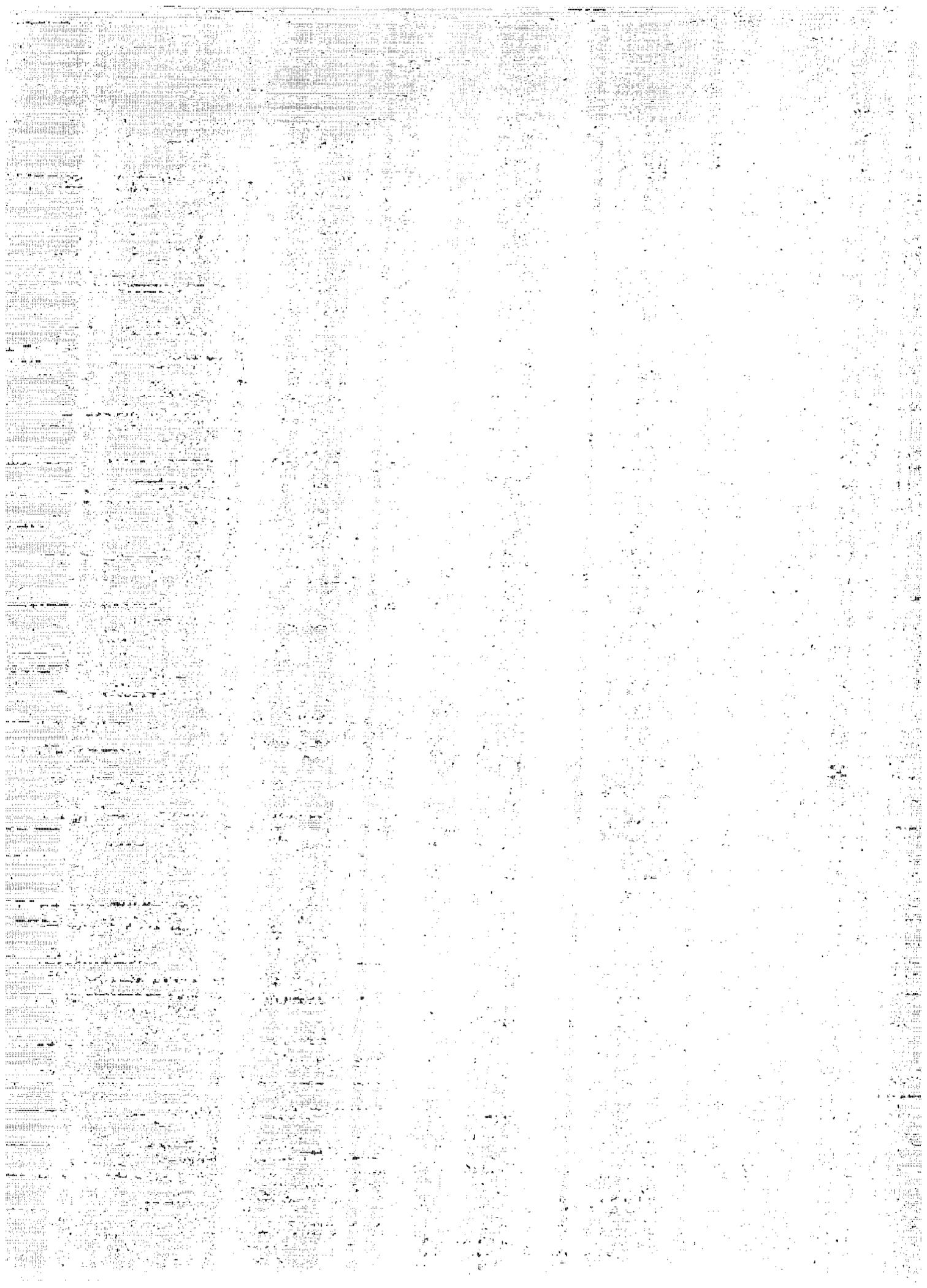
Item 4: The Maximum Purchase Price referred to in Article 4 of the Agreement is \$6,000,000.

Annex B

to

Conditional Sale Agreement

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
4,750 cu. ft. covered hopper cars	LO	#1013	Butler, Pa.	150	10850 through 10999, inclusive	\$40,000	\$6,000,000	April 1979 Butler, Pa.



LEASE OF RAILROAD EQUIPMENT

Dated as of April 15, 1979

between

THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

and

EXCHANGE NATIONAL BANK OF CHICAGO,
as Owner Trustee

Lease of Railroad Equipment

Table of Contents

	<u>Page</u>
§ 1. Net Lease	L-1
§ 2. Delivery and Acceptance of Units	L-2
§ 3. Rentals	L-3
§ 4. Term of Lease	L-4
§ 5. Identification Marks	L-4
§ 6. Taxes	L-5
§ 7. Maintenance; Casualty Occurrences, Insurance	L-8
§ 8. Reports and Inspection	L-11
§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification	L-12
§ 10. Default	L-15
§ 11. Return of Units upon Default	L-18
§ 12. Assignment; Possession and Use	L-20
§ 13. Renewal Options	L-22
§ 14. Return of Units upon Expiration of Lease Term	L-24
§ 15. Recording	L-25
§ 16. Interest on Overdue Rentals	L-26
§ 17. Tax Indemnities	L-26
§ 18. Notices	L-35
§ 19. Severability; Effect and Modification of Lease	L-35
§ 20. Execution	L-35
§ 21. Law Governing	L-36
§ 22. Definitions	L-36
§ 23. Concerning the Lessor	L-36

Schedule I--Schedule of Equipment

Schedule 2--Casualty Values

LEASE OF RAILROAD EQUIPMENT dated as of April 15, 1979, between THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY, a Delaware corporation (the "Lessee"), and EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association (the "Lessor"), not in its individual capacity but solely as trustee under a trust agreement dated as of the date hereof (the "Trust Agreement"), with Republic National Leasing Corporation (the "Owner Participant").

WHEREAS the Lessor is entering into a conditional sale agreement dated as of the date hereof (the "CSA") with Pullman Incorporated (Pullman Standard Division) (the "Builder") and North American Car Corporation, a Delaware corporation ("NAC"), wherein the Builder has agreed to manufacture, sell and deliver to NAC, and NAC agreed to sell and deliver to the Lessor, the units of railroad equipment described in Schedule 1 hereto (the "Equipment");

WHEREAS NAC is assigning its interests in the CSA to LaSalle National Bank, acting as agent (hereinafter, together with its successors and assigns, called the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement") with the Lessee, the Owner Participant, the Lessor, NAC and the parties named in Schedule A thereto;

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

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

§ 1. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not

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

§ 2. Delivery and Acceptance of Units. The Lessor will cause the Units to be delivered to the Lessee at the point within the United States of America at which the Units are delivered to the Lessor under the CSA. Upon such delivery, the Lessee will cause an employee of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and the Lessee shall execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the CSA, stating that

such Unit has been inspected and accepted on behalf of the Lessee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the CSA pursuant to the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such unit to this Lease.

§ 3. Rentals. The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease 180 consecutive monthly payments. The first payment is payable on the Delivery Date (as defined in the CSA). The remaining 179 monthly payments are payable on the corresponding date in each of the next succeeding 179 consecutive months (each of such 180 dates being hereinafter called a "Rental Payment Date"). The 180 monthly rental payments with respect to each Unit then subject to this Lease shall each be in an amount equal to .85% of the Vendee's Purchase Price of each such Unit for each Unit delivered and accepted under the CSA on or prior to May 30, 1979.

Notwithstanding any other provision hereof, to the extent that the Lessee shall be denied possession of a Unit or Units because of the occurrence of a default under the CSA which is not an Event of Default (as such term is hereinafter defined) under this Lease, the Lessee shall have no further obligation to make any additional rental payments for such Unit or Units with regard to periods subsequent to its loss of possession of such Unit or Units.

If any of the rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, including,

but not limited to, the payments provided for in this § 3 and in § 7 hereof, but excluding all payments not assigned to the Vendor pursuant to the Assignment of Lease and Agreement dated as of the date hereof, between the Lessor and the Vendor, at the principal office of the Vendor, for the account of the Lessor in care of the Vendor, with instructions to the Vendor first, to apply such payments to satisfy the obligations of the Lessor under the CSA, and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the CSA could constitute an event of default under the CSA shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in Federal or other funds immediately available to the Vendor by 11:00 a.m., Chicago time, on the date such payment is due.

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

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

§ 5. Identification Marks. The Lessee (at its own expense) will cause each Unit to be kept numbered with the road number set forth in Schedule 1 hereto, or in the case of any Unit not there listed, such road number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement

Filed with the Interstate Commerce Commission", 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 Lessor's and Vendor's title to and interest in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the CSA. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the CSA shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to such effect. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

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

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of 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 payable by the Lessor in consequence of the receipt of payments provided for herein and, to the extent that the Lessor receives credit therefor against its United States Federal income tax liability, any foreign income tax, and other than the aggregate of all state or local taxes measured by net income based on such receipts, value added taxes in lieu of such net income taxes and any state franchise tax which is not based on or measured by net income 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, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it

would otherwise be obligated to pay or reimburse as herein provided) or license fees, ad valorem property taxes, taxes and charges (Federal, state and local), fines or penalties and interest (all such expenses, taxes, license fees, ad valorem property taxes, taxes and charges (Federal, state and local), fines and penalties and interest being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured with respect to this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the CSA, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or the interest of the Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as such imposition remains unpaid and Lessee is contesting in its own name and in good faith and by appropriate legal or administrative proceedings such impositions, or the Lessor is required to contest such impositions as provided in this § 6, and the nonpayment thereof does not, in the reasonable opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder or the Lessor or the Vendor under the CSA. The Lessee agrees to give the Lessor notice of such contest brought in Lessee's name within 30 days after institution thereof and the Lessor agrees to provide such information as may be reasonably requested by the Lessee in furtherance of such contest. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall pay the Lessor on presentation of an invoice therefor if the Lessor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or the Lessee shall have approved the payment thereof, and the Lessor agrees to give the Lessee written notice promptly after it first obtains knowledge of the making of such charge or levy, and agrees to take such other action as may reasonably be requested by the Lessee for the purpose of contesting payment or obtaining refund of all or a portion of such imposition, as hereinafter

provided in this § 6.

In the event that the Lessor shall become obligated to make any payment to the Builder or the Vendor or otherwise pursuant to any correlative provision of the CSA not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor to fulfill completely its obligations pursuant to said provision; provided, however, that the Lessor shall have contested (if required to do so under this § 6) such impositions in good faith and to the extent permitted under the CSA.

In the event any returns, statements or reports with respect to impositions involving any Unit are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor and the Vendor in such Units, as shall be satisfactory to the Lessor and the Vendor or, where not so permitted, will notify the Lessor and the Vendor of such requirement and will prepare and deliver such reports to the Lessor and the Vendor within a reasonable period of time prior to the time such reports are to be filed 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 imposition, pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

In the event the Lessee may be prohibited by law or is impaired from contesting in its own name any imposition covered by this § 6 in respect of which the Lessee would otherwise be required to make payments to the Lessor pursuant hereto, the Lessor shall, upon request and at the expense of the Lessee, take all legal and other appropriate action reasonably requested by the Lessee to contest such imposition. 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. Further, the Lessee shall indemnify and hold the Lessor harmless from and against any and all claims, costs, expenses, damages, losses and

liabilities incurred in connection therewith as a result of, or incident to, any action taken by the Lessor or Lessee under this § 6. The Lessee shall be entitled to any refund received by the Lessor or the Lessee in respect of any imposition paid by the Lessee, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

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

The amount which the Lessee shall be required to pay with respect to any imposition which is subject to indemnification under this § 6 shall be an amount sufficient to restore the Lessor to the same net after tax rate of return and after-tax cash position, after considering the effect of such payment on its United States Federal income taxes and state and city income taxes or franchise taxes based on net income, that the Lessor would have been in had such imposition not been imposed.

§ 7. Maintenance; Casualty Occurrences; Insurance.

The Lessee agrees that, at Lessee's own cost and expense, it will be responsible for ordinary maintenance and repairs required to maintain and keep all of the Units which are subject to this Lease in good operating order, repair and condition and eligible for interchange service.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, returned to the Builder pursuant to the patent indemnity provisions of the CSA, or taken or requisitioned by condemnation or otherwise by the United States Government or any political subdivision thereof for a stated period which shall exceed the then remaining term of the CSA or for an indefinite period, but only when such period shall exceed the term hereof, or by any other governmental entity resulting in loss of possession by the Lessee

for a period of 90 consecutive days (such occurrences being hereinafter called "Casualty Occurrences"), prior to the return of such Unit in the manner set forth in § 14 hereof, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the Rental Payment Date next succeeding such notice the Lessee shall pay to the Lessor an amount equal to the rental payment or payments, if any, in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule referred to below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the Builder of such Unit) the Lessor shall be entitled to recover possession of such Unit and the Lessee shall pay all costs of removal of such Unit and of freight to the place designated pursuant to § 14 hereof.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Vendee's Purchase Price of such Unit as is set forth in Schedule 2 hereto opposite such date.

Whenever any Unit shall suffer a Casualty Occurrence after the expiration of the original or extended term of this Lease and before such Unit shall have been returned in the manner provided in § 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be 20% of the Vendee's Purchase Price of such Unit (unless such termination occurs after the term of this Lease has been extended pursuant to § 13 hereof, in which case the amount of such Casualty Value shall be as agreed upon between the Lessor and the Lessee at the time of such extension). Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Lessor shall be entitled to recover possession of such Unit.

The Lessor hereby irrevocably appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occur-

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

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

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

The Lessee will, at all times prior to the return of the Equipment to the Lessor, at its own expense, cause to be carried and maintained property insurance (which may be self-insurance to such extent as is satisfactory to the Lessor) and public liability insurance in respect of the Units at the time subject hereto, in amounts (subject to customary deductibles) and against risks customarily insured

against by railroad companies in respect of similar equipment, and, in any event, comparable in amounts and against risks insured against by the Lessee in respect of similar equipment owned by it. If the Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor shall, subject to the Lessee's having made payment of the Casualty Value in respect of such Unit, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor. Insurance proceeds received by the Lessor from the Lessee's insurance coverage in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired, but only to the extent of the Lessee's costs (including overhead and profit, if applicable) in effecting such repairs. Except as aforesaid, all such insurance proceeds shall be retained by the Lessor.

§ 8. Reports and Inspection. On or before April 30 in each year, commencing with the calendar year 1980, the Lessee will furnish to the Lessor and the Vendor (a) an accurate statement (i) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the CSA, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (ii) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the CSA have been preserved or replaced and (iii) stating that the Lessee is in compliance with the insurance provisions of § 7 hereof and setting forth a description of the insurance, if any, in effect with respect to the Equipment pursuant to § 7 hereof and (b) a certification of insurance coverage from the Lessee's independent

broker stating the amounts, if any, of such insurance in effect and the amount of deductible. The Lessor, at its sole cost and expense, shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease. The Lessee shall promptly notify the Lessor and the Vendor of any material changes or any material proposed changes of which the Lessee has knowledge in its insurance coverage in effect with respect to the Equipment pursuant to § 7 hereof.

The Lessee shall furnish to the Lessor the reports required to be furnished to the Lessor pursuant to Paragraph 10 of the Participation Agreement.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR AS TO THE LESSEE'S RIGHT TO QUIET ENJOYMENT THEREOF (EXCEPT AS TO ACTS OF THE LESSOR), OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE NOR SHALL THE LESSOR (EXCEPT AS TO VOLUNTARY ACTS OF THE LESSOR) BE RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT), it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of Item 3 of Annex A of the CSA; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly

by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; or (iii) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the matters stated in this paragraph.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units and with all applicable interchange rules, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that, prior to the expiration of this Lease or any renewal thereof, such laws or rules require any alteration, replacement, addition or modification of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the CSA. The Lessee, at its own cost and expense, may furnish other additions, modifications and improvements to the Units during the term of this Lease. Any additions, modifications and improvements made by the Lessee which are readily removable without causing material damage to the Units shall be owned by the Lessee and may be removed by the Lessee at any time during the term of this Lease or any renewal thereof and prior to the return thereof to the Lessor pursuant to § 11 or 14 hereof, except additions, modifications and improvements required to maintain each Unit's eligibility for interchange service or to comply with the provisions of the first paragraph of § 7 or the first sentence of this paragraph.

The Lessee agrees to indemnify, protect and hold

harmless the Lessor (in both its individual and fiduciary capacities) and the Vendor from and against all losses, damages, injuries, liabilities, claims (including without limitation claims for strict liability in tort) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of a default, an event of default or an Event of Default under the CSA, the Participation Agreement, this Lease, or any sublease entered into pursuant to § 12 hereunder, 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, unless caused by the gross negligence or wilful misconduct of such indemnified party, except as otherwise provided in § 14 of this Lease, or the transfer of title to the Equipment by the Vendor pursuant to any provision of the CSA. The indemnities arising under this paragraph shall continue in full force and effect with respect to all events, facts, conditions or other circumstances occurring or existing prior to the expiration or termination of the term of this Lease and return of the Units as provided in § 14 of this Lease; provided, however, that the foregoing indemnification shall not apply to any failure of payment of the principal of or interest on the CSA Indebtedness and shall not be deemed to operate as a guaranty of the residual value of any Unit. The amount the Lessee shall be required to pay with respect to any of its obligations under this paragraph shall include a payment to the indemnified party sufficient to restore such party to the same position, after considering the effect of such payment on its United States Federal income taxes and state and city income taxes or franchise taxes based on net income, that the indemnified party would have been in had the liability or expense indemnified against not been incurred.

The Lessee further agrees to indemnify, protect and hold harmless the Vendor, NAC and the Builder as third party beneficiaries hereof from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor, NAC or the Builder because of the use in or about the construction or operation of any of the Units of any article of material specified by

the Lessee and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to the Builder of any claim known to the Lessee from which liability may be charged against the Builder under the CSA.

The Lessee shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of any or all of the Units.

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 tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

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

(A) default shall be made in payment of any amount provided for in § 3 or § 7 of this Lease and such default shall continue for ten business days, or default shall be made in payment of any other amount provided for in this Lease and such default shall continue for ten business days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

(B) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof and shall fail or refuse to cause such assignment or transfer to be canceled by agreement of all parties having any interest therein and to recover possession of such Units within 15 days after written notice from the Lessor to the Lessee demanding such cancelation and recovery of possession;

(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 Participation Agreement, and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

(D) a petition for reorganization under the Federal Bankruptcy Act, as now constituted or as it 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 this Lease and the Consent (as defined in the CSA) shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 60 days after the commencement of the case; or

(E) any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder, 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 Consent), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Consent shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed 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 60 days after such proceedings shall have been commenced;

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 terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; 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 as damages for loss of the bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clause of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated

damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale; or

(c) make the payment or perform or comply with any agreement, the nonpayment, nonperformance or noncompliance with which caused such Event of Default, and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest at the rate of 10.00% per annum, shall be payable by Lessee as additional rental hereunder upon demand by Lessor.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

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

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

§ 11. Return of Units Upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessor

may, upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Lessor, take or cause to be taken by its agent or agents, immediate possession of each of the Units, or one or more of the Units and may remove the same from possession and use of the Lessee or any other person and for such purpose may enter upon the premises of the Lessee or any other premises where the Units may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Lessee, subject to all mandatory requirements of due process of law.

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

(a) forthwith and in the usual manner place such Units upon such storage tracks of the Lessee or any of its affiliates as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks (or if the storage of such Units on such tracks for a period in excess of sixty days would materially impair the Lessee's ability to perform its obligations as a common carrier by rail, on such other tracks of the Lessee as shall be reasonably satisfactory to the Lessor) at the risk of the Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor, but only in such manner as shall not materially impair the ability of the Lessee to perform its obligations as a common carrier by rail.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease,

and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Unit, to inspect the same. All time-mileage revenue earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which .0284% of the Vendee's Purchase Price of such Unit exceeds the actual earnings received by the Lessor on such Unit for each such day; such payment shall not affect the obligation of the Lessee to redeliver the Equipment pursuant to the first sentence of this paragraph.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor, provided that no assignment for other than security purposes shall be made without the consent of the Lessee, which consent shall not be unreasonably withheld. All the rights of the Lessor hereunder (including, but not limited to, the rights under §§ 6, 7 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns.

So long as the Lessee shall not be in default

under this Lease and the Lessee shall have fully complied with the provisions of the fourth paragraph of this § 12, the Lessee shall be entitled to the possession and use of the Units and, without the Lessor's consent, to sublease the Units to, or to permit their use by, a user incorporated in the United States of America (or any state thereof or the District of Columbia), upon lines of railroad owned or operated by the Lessee or such user or by a railroad company or companies incorporated in the United States of America (or any state thereof or the District of Columbia), or over which the Lessee, such user, or such railroad company or companies have trackage rights or rights for operation of their trains, and upon the lines of railroad of connecting and other carriers in the usual interchange of traffic or in through or run-through service, but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Lessor's consent, not to be unreasonably withheld, must be obtained for any sublease that is for a term or terms that aggregate more than six months in any one year; provided, further, however, that the Lessee shall not sublease or permit the sublease or use of any Unit to service involving regular operation and maintenance outside the United States of America; and provided, further, however, that any sublease or use shall be consistent with the provisions of § 17 hereof. No such assignment or sublease shall relieve the Lessee of its obligations hereunder which shall be and remain those of principal and not a surety.

Any sublease may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Units included in such sublease and the use thereof; provided, however, that every sublease shall be subject to the rights and remedies of the Vendor under the CSA and the Lessor under this Lease in respect of the Units covered by such sublease upon the occurrence of an Event of Default thereunder or hereunder.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease as aforesaid and other than an encumbrance resulting from claims against the Lessor, NAC, the Vendee or the Vendor not related to the ownership or leasing of, or the security title of the Vendor to, the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interest of the Lessor, the Vendor or the Lessee therein; except that this covenant will not be breached by reason of

liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent; and, furthermore, the Lessee shall be under no obligation to discharge any such lien, charge, security interest or encumbrance so long as it is contesting the same in good faith and by appropriate legal proceedings and the failure to discharge the same does not, in the reasonable opinion of the Lessor and the Vendor, adversely affect the title, property or rights of the Lessor hereunder or the Vendor under the CSA.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired or leased all or substantially all the lines of railroad of the Lessee; provided, however, that such assignee, lessee or transferee will not, upon the effectiveness of such merger, consolidation, lease or acquisition be in default under any provision of this Lease and that such acquisition or lease of railroad lines of the Lessee shall not alter in any way the Lessee's obligation to the Lessor and Vendor hereunder which shall be and remain those of a principal and not a surety.

§ 13. Renewal Options. The parties hereto contemplate that at the end of the original term of this Lease, the Lessor will hold the Units for re-lease. Prior to the delivery of the Units pursuant to § 2 hereof, the Lessor will enter into an agreement (the "Option Agreement") with Tiger Financial Services, Inc., a Delaware corporation ("Tiger"), pursuant to which the Lessor will grant to Tiger the option to lease all but not fewer than all of the Units for up to two five-year terms commencing at the end of the original term of this Lease on such terms as are set forth in the Option Agreement. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, if Tiger shall fail to exercise its option to lease the Units at the end of the original term of this Lease, the Lessee, by written notice delivered to the Lessor not less than six months prior to the end of the original term

or the first extended term of this Lease, as the case may be, may elect to extend the term of this Lease in respect of all but not fewer than all of the Units then covered by this Lease, for a five-year period commencing on the scheduled expiration of the original term or the first extended term, as the case may be, of this Lease. Such extension shall be on the same terms and conditions as are contained in this Lease, except as to the amount of rentals, which shall be at a "Fair Market Rental" as such term is defined in this § 13), payable monthly in arrears, and except as to applicable Casualty Values, which shall be as agreed upon between the Lessor and the Lessee at the time of such extension.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental but there shall be excluded any rental value attributable to additions, modifications and improvements which the Lessee is entitled to remove pursuant to § 9 hereof; provided, however, that Fair Market Rental shall be determined as provided in the preceding sentences on the basis of the term and other terms and conditions of the lease being considered.

If, after 45 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, as provided in the first paragraph of this § 13, the Lessee and the Lessor are unable to agree upon a determination of Fair Market Rental, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers so appointed shall within 35 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party

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

§ 14. Return of Units upon Expiration of Lease Term. As soon as practicable on or after the expiration of the original term or any extended term of this Lease with respect to the Units, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Units to the Lessor upon such storage tracks of the Lessee as the Lessee may reasonably designate, in such city on the lines of Lessee as Lessor may reasonably designate, or in the absence of Lessor's designation, in such city on the lines of Lessee as Lessee may designate, and permit the Lessor to store such Units on such tracks for a period not exceeding 60 days and transport the same, at any time within such 60-day period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representa-

tives of any prospective purchaser, lessee or user of such Units, 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, lessee or user, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) fit for loading and (iii) except for additions, modifications and improvements which the Lessee is entitled to remove under the provisions of § 9 of this Lease, meet all operating standards then in effect under the applicable rules of any governmental agency or other organization with jurisdiction. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. All time-mileage revenue earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which .0284% of the Vendee's Purchase Price of such Unit, exceeds the actual earnings received by the Lessor on such Unit for each such day.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the CSA and any assignment hereof or thereof to be filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the CSA and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested

by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA and the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the CSA shall be filed with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, interest at a rate per annum equal to 10% on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 17. Tax Indemnities. (a) In entering into the Participation Agreement and this Lease and the transaction contemplated thereby, it is the intention of the Owner Participant, the Lessor and the Lessee that such transaction will constitute a true lease for Federal income tax purposes, with the result that there will be made available to the Owner Participant and the Owner Participant will claim on its Federal income tax return the following tax benefits (the "Tax Benefits") for the purpose of determining its liability for Federal income taxes:

(i) the Owner Participant will be treated as owner of the Units for Federal income tax purposes;

(ii) the Owner Participant will have a basis in the Equipment under Section 1012 of the Internal Revenue Code of 1954, as amended (the "Code") and related sections not less than the Vendee's Purchase Price (as defined in the CSA) of the Units;

(iii) the Owner Participant, commencing with the annual period ending December 31, 1979, will be

entitled to depreciate the Units over an asset depreciation period of 12 years down to a salvage value equal to 0% of the Vendee's Purchase Price using the half-year convention or the modified half-year convention and utilizing the double-declining balance method with a change, not requiring the consent of the Commissioner of Internal Revenue, to the sum of the years-digits method as provided for in Treas. Reg. 1.167(a)-11(c)(1)(iii) when most beneficial to the Owner Participant (the depreciation with respect to the Equipment as so computed being hereinafter sometimes referred to as the "Depreciation Deductions"); and

(iv) interest paid by the Owner Participant on the CSA Indebtedness will be deductible by the Owner Participant under Code Section 163(a) (such deductions being hereinafter called the "Interest Deductions").

This Lease has also been entered into on the basis of the following assumptions: (i) for Federal income tax purposes and for the purposes of the income tax laws of all foreign countries in which the Lessee uses or operates any of the Units, all amounts includible in the gross income of, and all deductions allowable to, the Owner Participant with respect to the Units will be treated as derived from, or allocable to, sources within the United States; and (ii) there will not be included in the gross income of the Owner Participant for Federal income tax purposes any amount on account of any addition, modification or improvement to any Unit made by the Lessee under and pursuant to the terms of the Lease or otherwise.

(b) The Lessee agrees that, as among the Lessor, the Owner Participant and itself, the Owner Participant shall be entitled to the Tax Benefits. The Lessee agrees that neither it nor any corporation controlled by it, in control of it or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing 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 expressed herein. The Lessee agrees to keep and make available for

inspection and copying by the Owner Participant such records as will enable the Owner Participant to determine whether it is entitled to the Tax Benefits and the amounts thereof.

(c) (1) If the Tax Benefits shall be denied, disallowed or otherwise prohibited, or recaptured, in whole or in part, to the Owner Participant due to (A) the sale or other disposition of any Unit or the interest of the Owner Participant therein after the occurrence of an Event of Default under this Lease, (B) any act or failure to act of the Lessee, or (C) any change in or modification of the Federal tax law, including without limitation any change in or modification of provisions of the Code or Treasury Regulations, which shall be or become effective prior to the commencement of the term of this Lease with respect to such Unit; (2) if for Federal or foreign income tax purposes any item of income, loss or deduction with respect to any Unit is treated as derived from, or allocable to, sources outside the United States; or (3) if there shall be included in the Owner Participant's gross income for Federal income tax purposes any amount on account of any addition, modification or improvement to any Unit made by the Lessee (any such loss, disallowance, recapture, treatment or inclusion being hereinafter called a "Loss"), then the Lessee shall be obligated as follows:

(i) the Lessee shall pay to the Owner Participant on each of the dates provided in the Lease for payment of the installments of rent thereunder, commencing with the Rental Payment Date next following the giving of written notice by the Owner Participant to the Lessee that a Loss has occurred, an additional amount which, in the reasonable opinion of the Owner Participant and after deduction of all taxes, fees and other charges, however imposed, required to be paid by the Owner Participant as a result of the Owner Participant's receipt thereof, shall be sufficient to cause the Owner Participant's after-tax economic and accounting yields and cash flows (computed on the same assumptions, including, without limitation, the tax rates, as utilized by the Owner Participant in originally evaluating this transaction) to be equal to that which would have been realized by the Owner Participant if the Owner Participant had not suffered such Loss;

(ii) the Lessee and the Owner Participant shall amend this Lease to increase the Casualty Values so as to preserve, in the reasonable opinion of the Owner Participant, the Owner Participant's after-tax economic and accounting yields and cash flows as set forth in the preceding clause (i); and

(iii) the Lessee shall also pay the Owner Participant, upon demand, an amount which, after deduction of all taxes required to be paid by the Owner Participant in respect of the receipt thereof, shall be equal to the amount of any interest (net of any actual decrease in Federal, state and local income taxes caused by an allowable deduction of such interest from taxable income) or penalties, including any additions to tax, which may be assessed against the Owner Participant in connection with such Loss.

Anything in the preceding portion of this subsection (c) to the contrary notwithstanding, the Lessee shall not be required to make any payment to the Owner Participant provided for therein if the loss of any Tax Benefit results because of the occurrence of any of the following events:

(A) a voluntary transfer by the Vendee of legal title to any Unit or a disposition by the Owner Participant of any interest in the same, if, and to the extent that, either such transfer or disposal shall be the (or one of the) direct cause(s) of such loss (other than a sale or disposition of the Units or of the interest of the Owner Participant in the Units after the occurrence of an Event of Default under § 10 hereof);

(B) the failure of the Owner Participant to have sufficient gross income against which to apply the Depreciation Deductions or the Interest Deductions (but only if and to the extent that such benefit would not be lost if the Owner Participant had such sufficient gross income);

(C) the failure of the Owner Participant to properly and timely claim such Tax Benefit in its income tax return for the appropriate year or to follow the

proper procedure in claiming such Tax Benefit in such tax return for such year; and

(D) the Lessee shall have paid the Casualty Value for any Unit provided to be paid under this Lease in respect of which any Tax Benefit is lost.

(d) The Lessee shall, within 30 days after December 31 (or, if the Owner Participant's fiscal year-end occurs on some other date, within 30 days after such other date) in each year in which the Lessee has made any addition, modification or improvement (an "Alteration") to any Unit which the Lessee believes may be required to be included in the gross income of the Owner Participant for Federal income tax purposes, give written notice thereof to the Owner Participant describing such Alteration in reasonable detail and specifying the cost thereof.

(e) In the event that this Lease is terminated with respect to any Unit prior to the time the Lessee is obligated to make any payment to the Owner Participant pursuant to subsection (c) or (d) of this § 17 (either because no such payment obligation had become fixed under such subsections prior to such termination or because the due date of such payment shall occur following such termination), then the Lessee shall pay to the Owner Participant, in lieu of such payment, on or before 30 days after written request therefor from the Owner Participant such loss (or notice, as required in subsection (d) of this § 17), such lump sum as shall be necessary in the reasonable opinion of the Owner Participant, to maintain the Owner Participant's after-tax economic and accounting yields and cash flows (computed on the same assumptions as utilized by the Owner Participant in originally evaluating this transaction) in respect of such unit at the same level that would have been available if the Loss giving rise to such payment had not accrued.

(f) In the event a claim shall be made by the Internal Revenue Service that a Tax Benefit should be denied, disallowed or recaptured or in the event the Internal Revenue Service should propose any other adjustment which may or does result in any other Loss which would require Lessee to make a payment under this § 17 (any such claim or adjustment being

hereinafter called a "Claim"), the Owner Participant shall contest such Claim, provided that:

(i) within 30 days after notice by the Owner Participant to the Lessee of such claim, the Lessee shall make a request that such claim be contested;

(ii) prior to taking such action, the Lessee shall have furnished the Owner Participant with an opinion of its independent tax counsel selected by the Lessee and acceptable to the Owner Participant (which acceptance shall not be unreasonably withheld or delayed) to the effect that a meritorious ground exists for resisting such Claim and describing such ground, with the fees and disbursements of such independent counsel to be borne by the Owner Participant; provided, further, that if independent counsel shall opine that such a meritorious ground does not exist, such fees and disbursements shall be borne by the Lessee; and

(iii) the Lessee shall have indemnified the Owner Participant in a manner satisfactory to the Owner Participant for any liability or loss which it may incur as the result of contesting such Claim, and shall have agreed to pay the Owner Participant on demand all reasonable out-of-pocket costs and expenses which the Owner Participant may incur in connection with contesting such claim including, without limitation, (A) reasonable attorney's and accountant's fees and disbursements and (B) the amount of any interest and penalties which may ultimately be payable to the United States Government as the result of contesting such Claim.

If any Claim shall be made by the Internal Revenue Service and the Lessee shall reasonably have requested the Owner Participant to protest such Claim as above provided and shall have duly complied with all of the terms of this subsection (f), the liability of the Lessee to the Owner Participant under subsection (c) of this § 17 shall become fixed to the Owner Participant at the time the Owner Participant pays the Internal Revenue Service the amount of any tax increase attributable to the Loss to which such Claim

relates (or suffers a reduction in the amount of any refund which the Owner Participant would have been entitled to receive but for said loss. In the event any Claim is contested, the Owner Participant shall prosecute such contest diligently and in good faith and shall keep the Lessee informed of the status thereof. Further, the Owner Participant will not compromise or settle any claim contested in accordance with the provisions hereof without the consent of the Lessee, which consent shall not be unreasonably withheld; provided, however, that such consent shall be deemed to be given if such proposed compromise or settlement shall not be disapproved by the Lessee with thirty (30) days after written notice from the Owner Participant to the Lessee.

The Owner Participant, at its sole option, may choose to forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service or any other taxing authority in respect of any Claim the Owner Participant is obligated to contest pursuant hereto (other than such administrative appeals, proceedings, hearings or conferences as may be a condition precedent to filing and pursuing a claim for a redetermination of deficiency, or for a refund of taxes in an appropriate judicial forum, as the case may be. Further, the Owner Participant shall have the right, at its sole discretion, to elect either (a) to petition the Tax Court of the United States for a redetermination of the deficiency proposed to be assessed by the Internal Revenue Service as a result of such Claim or (b) to pay the deficiency and institute an action in a court of competent jurisdiction for a refund of taxes paid. The Owner Participant shall consider in good faith such request as the Lessee shall make concerning the forum in which to proceed, but the Owner Participant shall have the sole and final responsibility for the selection of such forum. In making this decision, the Owner Participant may take into account its overall tax position and the overall tax position of other members of the affiliated group of corporations with which the Owner Participant files a consolidated Federal income tax return, including the tax consequences of transactions unrelated to this Lease, as well as any other factors the Owner Participant deems relevant or appropriate in connection with such decision, and the decision ultimately reached by the Owner Participant shall be final and binding on all parties.

If, after receipt by the Owner Participant of an amount paid by the Lessee and attributable to a Loss, the extent of such Loss shall be established by the final adjudication thereof or a settlement with the consent of the Lessee, then on the next succeeding Rental Payment Date (or if there is no succeeding Rental Payment Date, within thirty (30) days after such final adjudication or settlement, as the case may be, the Owner Participant shall repay to the Lessee all or a portion of the amount or amounts theretofore received by the Owner Participant and paid by the Lessee with respect to such Loss which (by reason of such adjudication or settlement) the Owner Participant did not ultimately incur plus, in either case, simple interest (at the rate which is applicable under Section 6621 of the Code from time to time) and less, in either case, unpaid expenses of the contest. In addition to the foregoing, in the event of any final adjudication or settlement described in the preceding sentence, the increase in subsequent rental payments in respect of such Unit by reason of such Loss shall, commencing on the next succeeding Rental Payment Date after such final adjudication or settlement, as the case may be, be reduced to the extent such increase related to the portion of such Loss the Owner Participant did not ultimately incur. Notwithstanding the foregoing, the Owner Participant shall not be required to make any payment hereunder so long as an Event of Default under this Lease (or an event which with the passage of time or notice or both would constitute an event of default) shall have occurred and be continuing. Notwithstanding any provision to the contrary in this subsection (f) the Owner Participant may elect not to contest any Claim after the Lessee shall have complied with clauses (i), (ii) and (iii) of this subsection (f), and thereupon the Lessee shall be relieved of all liability to indemnify the Owner Participant with respect to the Tax Benefits involved in respect of such Claim, and the Owner Participant shall reimburse the Lessee for all amounts, including interest at the rate of 10% per annum on all amounts, paid by the Lessee under this subsection (f) in connection with such contesting.

(g) The Owner Participant agrees that it will elect under Section 48(d) of the Code, or any successor law within the period prescribed in Tres. Reg. § 1.48-4(f)(2),

to treat the Lessee as having acquired the Units for investment tax credit purposes. The Owner Participant will cause to be executed and delivered such instruments as are requested by the Lessee to evidence the election to pass to the Lessee such investment credit as may be available with respect to the Units pursuant to Section 38 and related sections of the Code. The Owner Participant agrees that it will not claim any investment tax credit in respect of the Units and will not take any action which the Lessee has reasonably requested the Owner Participant in writing not to take and which would interfere with the Lessee's entitlement to the investment tax credit (other than in connection with a sale or other disposition of a Unit or interest of the Owner Participant after the occurrence of an Event of Default under the Lease). The Owner Participant has not made and shall not have been deemed to have made any warranty or representation as to the validity or the effectiveness of such election.

(h) All of the Owner Participant's rights and privileges arising from the indemnities contained in this § 17 shall survive the expiration or other termination of this Lease and such indemnities are expressly made for the benefit of and shall be enforceable by the Owner Participant, its successors and assigns.

(i) Notwithstanding subparagraph (c) of this § 17, in the event that there shall at any time occur and be continuing an Event of Default under this Lease (or an event which, after notice or lapse of time, or both, would become such an Event of Default), which has not been cured or waived within thirty (30) days following written notice by the Owner Participant to the Lessee of the existence of such event, the Lessee shall within thirty (30) days following the date of such notice pay in a lump sum all unpaid amounts (together with interest at the rate of 10% per annum) from the date of such notice to the date of payment) which would otherwise become payable pursuant to subparagraph (c) of this § 17.

(j) For purposes of this § 17, the term "Owner Participant" shall include the corporation constituting the Owner Participant and shall also include any member of an

affiliated group of which the Owner Participant is, or may become, a member if consolidated, joint or combined returns are filed for such affiliated group for Federal, state or local income tax purposes.

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

(a) if to the Lessor, at 130 South LaSalle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department; and

(b) if to the Lessee, at One Park Central, 1515 Arapahoe Street, Denver, Colorado 80217, Attention of Manager of Equipment Planning;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at 135 South LaSalle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department.

§ 19. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Except for the Participation Agreement and the other exhibits thereto, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

§ 20. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart deliv-

ered to the Vendor pursuant to the assignment hereof to the Vendor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

§ 22. Definitions. Whenever the term "Lessor" is used in this Lease, it shall also include the Owner Participant and any assignee of the Owner Participant.

§ 23. Concerning the Lessor. Each and all of the warranties, representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by Exchange National Bank of Chicago, or for the purpose or with the intention of binding said national association personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by said national association solely in the exercise of the powers expressly conferred upon said national association as trustee under the Trust Agreement, and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said national association, except for wilful misconduct or gross negligence, or against the Owner Participant under the Trust Agreement (except under the last paragraph of Section 5.01 thereof) or on account of any representation, undertaking or agreement herein of the Lessor or the Owner Participant, either expressed or implied, all such personal liability (except as aforesaid), if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee.

IN WITNESS WHEREOF, the parties hereto have exe-

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

THE DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY,

by

[Corporate Seal]

Vice President

Attest:

Assistant Secretary

EXCHANGE NATIONAL BANK OF CHICAGO,
not in its individual capacity
but solely as Trustee,

by

[Seal]

Attest:

STATE OF COLORADO,)
) ss.:
COUNTY OF DENVER,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a of THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission expires

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

On this the day of , 1979, before me personally appeared , to me personally known, who being by me duly sworn, says that he is of EXCHANGE NATIONAL BANK OF CHICAGO, that one of the seals affixed to the foregoing instrument is the 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.

Notary Public

[Notarial Seal]

My Commission expires

SCHEDULE 1 TO LEASE

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>
4,750 cu. ft. covered hopper cars	L0	150	10850 through 10999, inclusive

SCHEDULE 2 TO LEASE
CASUALTY VALUES

<u>Rental Payment Date No.</u>	<u>Percentage of Vendee's Purchase Price</u>
1	105.8262%
2	105.0263%
3	104.9687%
4	104.9064%
5	104.3976%
6	104.3291%
7	104.2583%
8	103.9174%
9	105.1845%
10	105.1117%
11	105.0387%
12	104.4760%
13	104.3951%
14	103.5794%
15	103.4877%
16	103.3929%
17	102.8344%
18	102.7332%
19	102.6300%
20	102.1759%
21	103.1240%
22	103.0169%
23	102.9093%
24	102.3461%
25	102.2312%
26	101.4035%
27	101.2784%
28	101.1505%
29	100.5479%
30	100.4134%
31	100.2768%
32	99.7258%
33	100.4000%
34	100.2580%
35	100.1152%
36	99.5482%
37	99.3982%
38	99.5592%
39	99.3994%
40	98.2368%

Rental Payment
Date No.Percentage of
Vendee's Purchase Price

41	97.5935%
42	97.4240%
43	97.2524%
44	96.6103%
45	97.0445%
46	96.8655%
47	96.6854%
48	96.1127%
49	95.9255%
50	95.0777%
51	94.8808%
52	94.6812%
53	94.0019%
54	93.7951%
55	93.5861%
56	92.8557%
57	93.0722%
58	92.8543%
59	92.6349%
60	92.0545%
61	91.8280%
62	90.9735%
63	90.7376%
64	90.4992%
65	89.7883%
66	89.5422%
67	89.2939%
68	88.4891%
69	88.5104%
70	88.2518%
71	87.9914%
72	87.4015%
73	87.1342%
74	86.2750%
75	85.9985%
76	85.7194%
77	84.9815%
78	84.6946%
79	84.4054%
80	83.5398%

Rental Payment
Date No.Percentage of
Vendee's Purchase Price

81	83.3888%
82	83.0881%
83	82.7853%
84	82.1843%
85	81.8746%
86	81.0130%
87	80.6943%
88	80.3732%
89	79.6127%
90	79.2835%
91	78.9520%
92	78.0395%
93	77.7545%
94	77.4107%
95	77.0645%
96	76.4411%
97	76.0879%
98	75.2259%
99	74.8641%
100	74.4999%
101	73.7146%
102	73.3420%
103	72.9670%
104	71.0214%
105	71.6281%
106	71.2401%
107	70.8494%
108	70.2013%
109	69.8033%
100	68.9428%
111	68.5361%
112	68.1269%
113	67.3196%
114	66.9013%
115	66.4805%
116	65.5137%
117	65.0274%
118	64.5924%
119	64.1541%
120	63.4811%

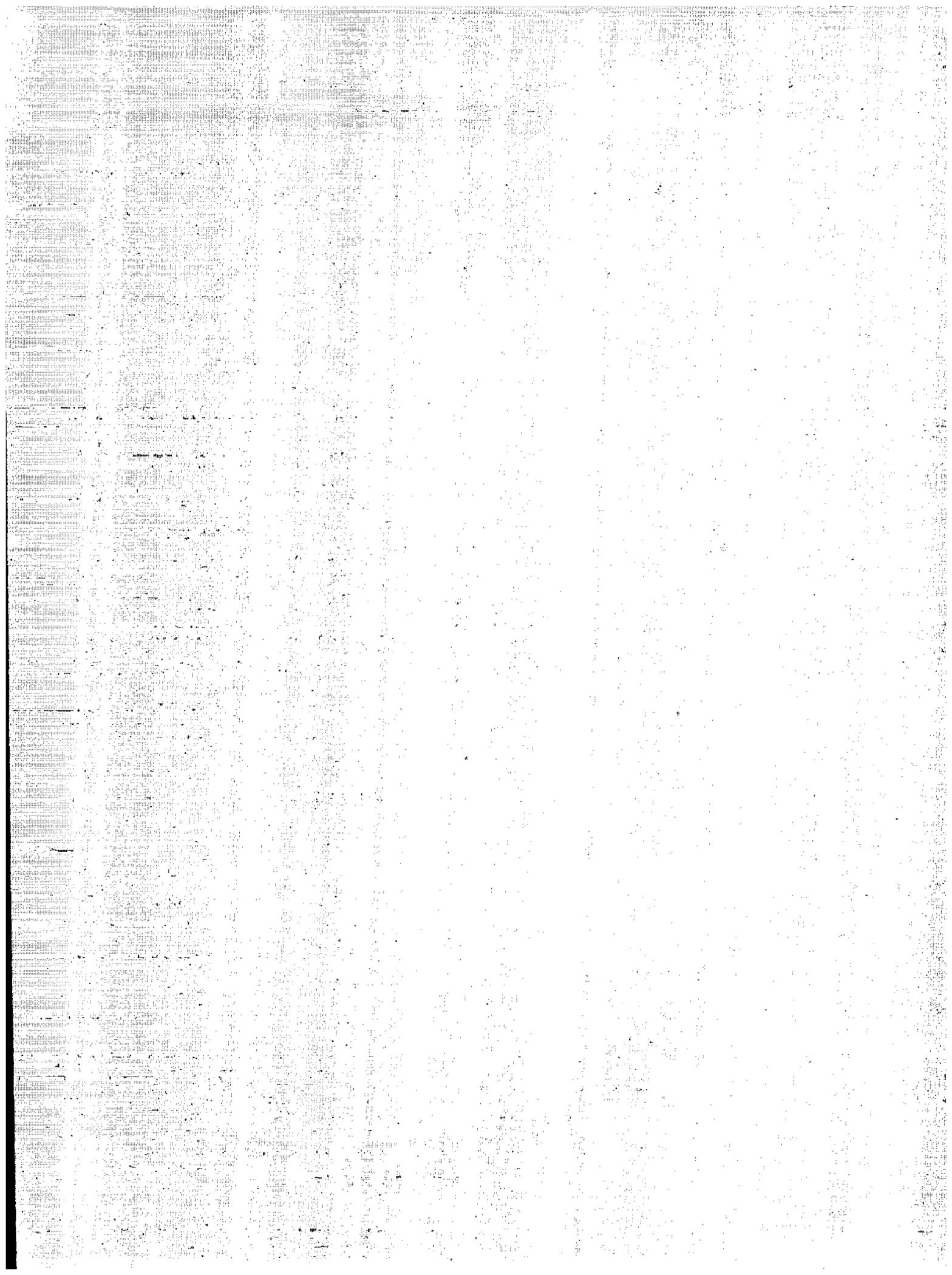
Rental Payment
Date No.Percentage of
Vendee's Purchase Price

121	63.0356%
122	62.1771%
123	61.7232%
124	61.2669%
125	60.4436%
126	59.9781%
127	59.5098%
128	58.5350%
129	57.9746%
130	57.4919%
131	57.0055%
132	56.3098%
133	55.8159%
134	54.9591%
135	54.4566%
136	53.9517%
137	53.1187%
138	52.6039%
139	52.0862%
140	51.1152%
141	50.4985%
142	49.9655%
143	49.4283%
144	48.7101%
145	48.1653%
146	47.3085%
147	46.7556%
148	46.2001%
149	45.3637%
150	44.7983%
151	44.2297%
152	43.2756%
153	42.6163%
154	42.0325%
155	41.4442%
156	40.7052%
157	40.1087%
158	39.2553%
159	38.6504%
160	38.0427%

Rental Payment
Date No.

Percentage of
Vendee's Purchase Price

161	37.2058%
162	36.5874%
163	35.9655%
164	35.0340%
165	34.3364%
166	33.6984%
167	33.0551%
168	32.2931%
169	31.6414%
170	30.7907%
171	30.1303%
172	29.4669%
173	28.6292%
174	27.9547%
175	27.2763%
176	26.3688%
177	25.6313%
178	24.9364%
179	24.2359%
180	23.4503%



ASSIGNMENT OF LEASE AND AGREEMENT dated as of April 15, 1979 (this "Assignment"), by and between EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association, not in its individual capacity but solely as trustee (the "Lessor" or the "Vendee") under a trust agreement dated as of the date hereof (the "Trust Agreement") with Republic National Leasing Corporation (the "Owner Participant") and LA SALLE NATIONAL BANK, a national banking association, as Agent (the "Vendor") under a Participation Agreement dated as of the date hereof.

WHEREAS the Vendee is entering into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with North American Car Corporation ("NAC") and Pullman Incorporated (Pullman Standard Division) (the "Builder"), providing for the sale to NAC by the Builder, and the conditional sale to the Vendee by NAC of such units of railroad equipment (the "Units") described in Annex B thereto as are delivered to and accepted by NAC and the Vendee, respectively, thereunder;

WHEREAS the Lessor and The Denver and Rio Grande Western Railroad Company, (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease"), providing for the leasing by the Lessor to the Lessee of the Units; and

WHEREAS, in order to provide security for the obligations of the Lessor under the CSA and as an inducement to the Vendor to invest in the CSA Indebtedness (as defined in the CSA), the Lessor agrees to assign for security purposes certain of its rights in, to and under the Lease to the Vendor;

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

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as

Vendee under the CSA, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease (including those inuring to the benefit of the Owner Participant by virtue of § 22 of the Lease), including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof. Notwithstanding the foregoing, the Payments shall not be deemed to include, either before or after an Event of Default shall have occurred and be continuing under the Lease, payments made by the Lessee to the Lessor or the Owner Participant pursuant to §§ 6, 9 and 17 of the Lease (except indemnification payments owing to the Vendor pursuant to Articles 6 and 13 of the CSA and except to the extent that the Vendee is obligated to pay and discharge claims, liens, charges or security interests under Paragraph 6 of this Assignment).

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the CSA, and, so long as no event of default or event which with the lapse of time and/or demand provided for in the CSA could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor, by check mailed to the Lessor on such date or, upon written request of the Lessor, by bank wire to the Lessor at such address as may be specified to the Vendor in writing, and such balance shall be retained by the Lessor. The Vendor shall notify the Lessor at the address

set forth in the Lease if the Vendor shall not receive any rental payment under the first paragraph of § 3 of the Lease when due; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the CSA.

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

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

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

5. Upon the full discharge and satisfaction of all sums due from the Lessor under the CSA, this Assignment

and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. The Lessor will pay and discharge any and all claims, liens, charges or security interests (other than those created by the CSA) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor or the Owner Participant, or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the CSA or the Lease (but including tax liens arising out of the receipt of the rentals and other payments under the Lease and any other proceeds from the Units) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments equal or superior to the Vendor's interest therein, unless the Lessor or the Owner Participant shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect such interests of the Vendor.

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

8. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

9. This Assignment shall be governed by the laws of the State of Illinois, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303. The counterpart of this Assignment delivered to the Vendor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof.

10. The Lessor shall cause copies of all notices

received in connection with the Lease and all Payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the CSA, or at such other address as the Vendor shall designate.

11. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the CSA has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment to the extent they are for the sole benefit of the Lessor and not required to satisfy the obligations of the Lessor under the CSA, without the prior consent of the Lessor.

12. Notwithstanding any other provision of this Assignment (including, but not limited to, any provision of the first paragraph of Paragraph 1 and Paragraph 3 hereof), (a) so long as there is no event of default under the CSA, and to the extent that the Vendor does not seek to receive and collect any Payments under the Lease in excess of the amounts required to discharge the obligations of the Lessor under the CSA, the terms of this Assignment shall not limit or in any way affect the Lessor's right to receive and collect any Payments under the Lease in excess of the obligations of the Lessor under the CSA, or empower the Vendor in any way to waive or release the Lessee's obligation to pay the same, and the Lessor shall continue to be empowered to ask, demand, sue for, collect and receive any and all of such excess amounts, but shall not take any action under subparagraph (b) of § 10 of the Lease without the written consent of the Vendor and (b) each and all of the warranties, representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by Exchange National Bank of Chicago, or for the purpose or with the intention of binding said bank personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Assignment is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon said bank as trustee under the Trust Agreement, and that no personal

liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank, except for wilful misconduct or negligence, or against the Owner Participant under the Trust Agreement (except under the last paragraph of Section 5.01 thereof) or on account of any representation, undertaking or agreement herein of the Lessor or the Owner Participant, either expressed or implied, all such personal liability (except as aforesaid), if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under it, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

13. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Vendor shall be deemed to be the original and all other counterparts shall be deemed to be duplicates thereof. It shall not be necessary that any counterpart be signed by both parties so long as each party shall sign at least one counterpart.

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

EXCHANGE NATIONAL BANK OF CHICAGO,
not in its individual capacity but
solely as Trustee,

[Seal]

by

Attest:

LA SALLE NATIONAL BANK, as Agent,

[Seal]

by

Attest:

The undersigned hereby consents to the foregoing Assignment of Lease and Agreement as of this 15th day of April 1979.

REPUBLIC NATIONAL LEASING
CORPORATION,

by

[Seal]

Attest:

CONSENT AND AGREEMENT

The undersigned, THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY, a Delaware corporation (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease, other than amounts not assigned to the Vendor (as hereinafter defined) pursuant to the Assignment, due and to become due under the Lease or otherwise in respect of the Units (as defined in the Lease) leased thereunder, directly to LA SALLE NATIONAL BANK, as Agent (the "Vendor"), the assignee named in the Lease Assignment, at 135 South La Salle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department (or at such other address as may be furnished in writing to the Lessee by the Vendor);

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

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

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

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

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

THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY,

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

The foregoing Consent and Agreement is hereby accepted, as of the 15th day of April 1979.

LA SALLE NATIONAL BANK, as Agent,

by



4/27/79

Interstate Commerce Commission
Washington, D.C. 20423

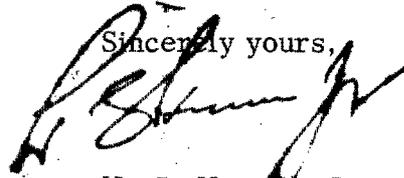
OFFICE OF THE SECRETARY

John S. Herbert
Cravath, Swaine & Moore
One Chase Manhattan Plaza
New York, N.Y. 10005

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 4/27/79 at 4:35pm, and assigned recordation number(s). 10322, 10322-A, 10322-B, 10322-C

Sincerely yours,



H. G. Homme, Jr.
Secretary

Enclosure(s)

SE-30
(3/79)