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INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE

Dated as of June 1, 1975

between

Seattle-First National Bank,

A National Banking Association,

As Trustee

LESSOR

and

National Railroad Passenger Corporation,

LESSEE

Guaranty by Department of Transportation

25 General Electric Diesel-Electric Locomotives

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EQUIPMENT LEASE

THIS EQUIPMENT LEASE dated as of June 1, 1975, between SEATTLE-FIRST NATIONAL BANK, a national banking association, not in its individual capacity but solely as Trustee Under the Trust Agreement (the "Lessor"), and NATIONAL RAILROAD PASSENGER CORPORATION, a corporation organized under the Rail Passenger Service Act, as amended, and the Laws of the District of Columbia (the "Lessee");

WITNESSETH:

SECTION 1. MANUFACTURE AND DELIVERY OF EQUIPMENT.

1.1 *Intent to Purchase, Sell and Lease.* The Lessee is purchasing certain equipment delivered and accepted and settled for under the Conditional Sale Agreement (as hereinafter defined) after June 1, 1975 and on or prior to December 31, 1975 (such equipment, including any Lessee improvement [as defined in Section 2.2 hereof] thereto being herein referred to collectively as the "Equipment" and individually as a "Unit of Equipment") described in Schedule A attached hereto and made a part hereof, pursuant to a Conditional Sale Agreement (the "Conditional Sale Agreement") dated as of June 1, 1975 with GENERAL ELECTRIC COMPANY (the "Builder"). Upon delivery of each Unit of Equipment by the Builder, and the execution and delivery by and on behalf of the Lessee of a Certificate of Acceptance therefor, substantially in the form of Exhibit I to the Conditional Sale Agreement, the Lessee, prior to placing such Unit of Equipment in service, is selling such Unit of Equipment to the Lessor, subject to the provisions of the Conditional Sale Agreement, pursuant to the Sale and Lease Back Agreement (as defined in the Conditional Sale Agreement and herein the "Sale and Lease Back Agreement"). The Lessor agrees to lease and let each such Unit of Equipment to the Lessee and the Lessee agrees to hire each such unit of Equipment from the Lessor for the rental and on and subject to the terms and conditions herein set forth; *provided* that the Acquisition Cost (as defined in Section 2.2 hereof) of all Units of Equipment leased hereunder shall not exceed an aggregate of \$15,250,000.00.

1.2 *Inspection and Acceptance.* Upon delivery of each Unit of Equipment by the Builder, an authorized representative of the Lessee will inspect such Unit of Equipment and if such Unit of Equipment tendered for delivery appears to meet the specifications, such representative will accept delivery thereof and execute and deliver to the Builder and the Lessor duplicate Certificates of Acceptance.

1.3 *Certificate of Acceptance.* The lessee's execution and delivery to the Lessor of a Certificate of Acceptance with respect to each Unit of Equipment shall conclusively establish that, as between the Lessor and the Lessee, but without limiting or otherwise affecting Lessor's or the Lessee's rights, if any, against the Builder or any other third party, such Unit of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any defect with respect to design, manufacture, condition or in any other respect, and that such Unit of Equipment is in good order and condition and appears to conform to the specifications applicable thereto and all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any. The execution of a Certificate of Acceptance with respect to a Unit of Equipment shall constitute a representation by the Lessee that it has no knowledge of any defect in such Unit of Equipment.

SECTION 2. RENTS AND PAYMENT DATES.

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

(a) *Interim Rent.* For each Unit of Equipment as Interim Rent the sum of (i) an amount equal to 2/365ths of the Basic Lease Rate (as defined in Section 2.1(b) hereof) of the Acquisition Cost (as defined in Section 2.2 hereof) of each Unit of Equipment subject to this Lease for each day elapsed from and including the Closing Date (as defined in the Conditional Sale Agreement and herein the "Closing Date") for such Unit of Equipment to the Term Lease Commencement Date (as defined in Section 2.2 hereof), plus (ii) an amount equal to the guaranty fee payable by the Lessor, as Trustee, to the Deputy Federal Railroad Administrator of the Department of Transportation of the United States of America (the "Administrator") under the Guaranty Agreement (the "Guaranty Agreement"), dated JULY 16, 1975, among the Administrator on behalf of the Secretary of the Department of Transportation, the Lessor, and Federal Financing Bank, as Assignee of the Builder under the Conditional Sale Agreement (the "Guaranty Fee") in respect of such rental period.

(b) *Periodic Rent.* For each Unit of Equipment thirty (30) semiannual installments of Periodic Rent payable in an amount equal to the sum of (i) 4.8124% of the Acquisition Cost (herein called the Basic Lease Rate) of such Unit of Equipment plus (ii) an amount equal to the Guaranty Fee payable in respect of each rental period plus (iii) the aggregate of the Modification Rate of each Modification Cost of such Unit of Equipment (as defined in Section 2.2 hereof).

(c) *Additional Rent.* Additional rent payable by Lessee to Lessor under this Lease shall include, without limitation, amounts, if any, payable pursuant to Sections 10.2, 11, 15.1, 16 and 21 hereof.

2.2 Rent Payment Dates; Acquisition Cost; Modifications. The Term Lease Commencement Date (herein "Term Lease Commencement Date") for all Units of Equipment shall be December 31, 1975. Interim Rent shall be due and payable on the Term Lease Commencement Date with respect to Interim Rent accrued to such date. The installments of Periodic Rent for each Unit of Equipment shall be due and payable semiannually following the Term Lease Commencement Date on July 2 and December 31 of each year, commencing July 2, 1976 (herein a "rent payment date"). The term "Acquisition Cost" as used herein shall mean, with respect to each Unit of Equipment, the cost to the Lessor of the acquisition of such Unit of Equipment (including the unpaid amount of the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement and herein the "Conditional Sale Indebtedness") with respect to such Unit assumed by the Lessor, and including the cost to Lessor of any Modification to such unit made prior to Term Lease Commencement Date, but not including any closing costs). The term "Modification Cost" as used herein shall mean with respect to each Unit of Equipment, the cost to the Lessor of each Modification to such Unit of Equipment made from time to time, on or after the Term Lease Commencement Date pursuant to Sections 7 and 8 hereof. The term "Modification Rate" as used herein shall mean that percentage of each Modification Cost which will amortize such Modification over the then remaining term of this Lease and will provide Lessor with a pre-tax equivalent yield, calculated on after-tax basis, equal to 5% above the rate for newly issued United States Treasury obligations of maturities most closely corresponding to the termination date of the Lease. The term "Lessee Improvement" shall mean each improvement or addition after the Term Lease Commencement Date not included in normal repairs, maintenance and replacements, to any Unit of Equipment, which is or will be readily removable without causing material damage to such unit of Equipment or which would qualify as a deductible repair within the annual percentage repair allowance under the appropriate Asset Guideline Class of the Equipment (which Class shall include for purposes of this sentence, only the Equipment and Modifications thereto) as provided in Reg. 1.167(a)-11 as from time to time amended. The term "Modification" shall mean any addition or improvement to a Unit of Equipment not included in normal repairs, maintenance and replacements, which is not a Lessee Improvement (as defined in this Section 2.2).

2.3 Place and Manner of Rent Payment. The Lessor irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments provided for in this Lease in immediately available funds (including but not limited to the payments required under Section 11 hereof) for the account of the Lessor, care of the Trustee, Seattle-First National Bank, P.O. Box 24186, Seattle, Washington

98124, Attention: Corporate Trust Dept., or at such other place or places as the Trustee shall specify in writing in the Sale and Lease Back Agreement or otherwise) on or before 10:00 A.M., Seattle time, on the date upon which payments are due and payable. With respect to payments made in other than Federal funds, the Lessee will instruct the bank transferring said funds on the Lessee's behalf to wire advice of said transfer to Seattle-First National Bank, Attention: Corporate Trust Dept., not later than 10:00 A.M. Seattle time on the rental payment date. With respect to payments made in Federal funds, the Lessee will instruct the Bank transferring said funds on the Lessee's behalf to make said transfer to Seattle-First National Bank, Attention: Corporate Trust Dept.

2.4 *Net Lease.* This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against the Builder of the Equipment, 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 failure of title of the Lessor to the Equipment (except for any defect or failure of title resulting solely from acts or omissions of the Lessor or any Trustor) or any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of Equipment by condemnation or otherwise, the lawful prohibition of the Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment is made available to Lessor, or until, pursuant to Section 22.1 hereof, the Lessee shall purchase the Equipment; *provided however*, that neither this Section 2.4 nor any other provision of this Lease shall preclude any separate, independent claim (not by way of any abatement or reduction of any amount at any time payable by the Lessee hereunder) by the Lessee for the breach of any representation, covenant, undertaking or agreement made herein by the Lessor for itself or for the Trustors (as defined in Section 24.11 hereof).

SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Unit of Equipment shall begin on the Closing Date for such Unit of Equipment, and subject to the provisions of this Section 3 and Sections 7, 8, 11, 16 and 22 hereof shall terminate, in the case of each Unit of Equipment, fifteen (15) years following the Term Lease Commencement Date, *provided, however*, that any time prior to the Term Lease Commencement Date, Lessee may exercise its purchase option pursuant to Section 22.1 hereof (subject to the terms thereof) at an option price as determined in paragraph (a) of said Section 22.1.

SECTION 4. OWNERSHIP AND MARKING OF THE EQUIPMENT.

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

4.2 *Duty to Number Equipment.* The Lessee will cause each Unit of Equipment to be kept numbered with its road number as set forth in Schedule A. The Lessee will not change the road number of any Unit of Equipment except with the consent of the Lessor and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited by the Lessee in all public offices where this Lease shall have been filed, recorded or deposited.

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

4.4 *Indemnification for Improper Marking.* The Lessee shall indemnify the Lessor and the Trustors against any liability, loss or expense incurred by any of them as a result of any act or omission of the Lessee which is inconsistent with Sections 4.2 or 4.3 hereof.

SECTION 5. DISCLAIMER OF WARRANTIES.

NEITHER THE LESSOR NOR ANY TRUSTOR SHALL BE DEEMED TO HAVE MADE OR GIVEN, AND EACH HEREBY EXPRESSLY DISCLAIMS, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO (A) THE MERCHANTABILITY, FITNESS FOR USE, OPERATION, CONDITION OR DESIGN OF ANY UNIT OF EQUIPMENT, (B) THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP THEREIN, (C) THE LESSOR'S TITLE THERETO, (D) INTERFERENCE BY ANY PARTY OTHER THAN THE LESSOR WITH THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, OR (E) ANY OTHER MATTER WHATSOEVER (other than Lessor's Warranty as hereafter in this Section 5 defined), UPON THE ACCEPTANCE BY THE LESSEE OF ANY SUCH UNIT OR THE TRANSFER THEREOF TO THE LESSEE PURSUANT TO ANY PROVISION HEREOF, OR OTHERWISE, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the Builder in respect thereof. "Lessor's Warranty" shall mean as to any Unit of Equipment including Modifications thereto a warranty by the Lessor that: (i) the Lessor has received whatever title (subject to the security interest of the Vendor) to such Unit of Equipment including Modifications thereto as was conveyed to the Lessor by the Lessor's predecessor in title to such Unit of Equipment including Modifications thereto; and (ii) such Unit of Equipment including Modifications thereto will be free of all liens, charges, encumbrances, claims or security interest which either (A) result from action taken or omissions to act by the Lessor which are not expressly permitted by this Lease or which are not expressly requested or consented to by the Lessee in writing or (B) result from action taken or omissions to act by the Lessor other than with respect to the Equipment and Modifications thereto, or in connection with this Lease.

SECTION 6. LESSEE'S INDEMNITY.

6.1 *Scope of Indemnities.* Except with respect to the Lessor's or the Trustor's exercise of its right to inspect under Sections 12.3, 13 and 17 hereof, and except as provided in Section 15.2 of the Participation Agreement (hereinafter defined), the Lessee agrees to indemnify, protect and hold harmless the Lessor and the Trustors from and against all losses, damages, injuries, liabilities, claims and demands 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 or an event of default under Section 16 of, this Lease, the ownership of any Unit of Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit of Equipment or any accident in connection with the operation, use, condition, possession, storage or return of any Unit of Equipment resulting in damage to property or injury or death to any person; *provided, however,* the Lessee shall not in-

demnify, protect or hold harmless the Lessor or the Trustor from or against any losses, damages, injuries, liabilities, claims or demands (including any expenses in connection therewith) which either (i) result from actions taken by the Lessor or the Trustor which are not expressly permitted by this Lease or (ii) result from action taken or omissions to act by the Lessor or the Trustor other than with respect to the Equipment or in connection with this Lease.

6.2 *Continuation of Indemnities and Assumptions.* The indemnities contained in this Section 6 shall survive the expiration of the term or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination. The Lessee shall be entitled to control, and shall assume full responsibility for, the defense of any action, suit or proceeding brought in connection with any matter indemnified against pursuant to Section 6.1 hereof, will cause such action, suit or proceeding to be defended by counsel selected by the Lessee, which counsel shall be reasonably acceptable to the Lessor, and the Lessor and the Trustor agree to cooperate with the Lessee in any such defense. In the event of the Lessee's refusal to assume such defense, the Lessee shall pay all costs and expenses incurred by the Lessor or the Trustor in connection with such defense, including counsel fees.

SECTION 7. RULES, LAWS AND REGULATIONS.

7.1 The Lessee agrees, for the benefit of the Lessor, the Trustor and Federal Financing Bank, to comply in all material respects with all applicable laws, rules, requirements or regulations of any legislative, executive, administrative or judicial body exercising any power, authority or jurisdiction over the equipment or the Lessee including, without limitation, all laws of the jurisdictions in which the Lessee's service or operations now or hereafter may extend, and the rules and regulations of the United States Department of Transportation and the Interstate Commerce Commission, to the extent such requirements or regulations affect the title, maintenance or possession of any Unit of Equipment, and not to cause nor permit any Unit of Equipment to be operated in violation of such requirements or regulations. In the event any change, alteration, replacement, or addition including, without limitation, a Modification of or to any part of any Unit of Equipment shall be required or ordered by any of the foregoing to be made prior to the expiration of this Lease or any renewal thereof, the Lessee shall fully comply therewith; *provided, however*, that anytime after December 31, 1984, anything in this Section 7 to the contrary notwithstanding, Lessee may, in lieu of making any required Modification under this Section 7.1, exercise its purchase option pursuant to Section 22.1 hereof (subject to the terms thereof) at an option price determined pursuant to paragraph (b) thereof.

7.2 Each Modification (as defined in Section 2.2 hereof) shall be made initially at Lessor's own cost and expense and leased by Lessee over the remaining term of this Lease as provided in Section 2.1(b) hereof. *Provided, however*, that anything in Section 7.1 or 8 hereof to the contrary notwithstanding, the Lessee shall not make any Modification to a Unit of Equipment unless all obligations of Lessee hereunder attributable thereto shall have been guaranteed by the Administrator pursuant to the Guaranty Agreement or by a surety bond or other security reasonably satisfactory to Lessor in form and substance. Any replacement, repairs, or maintenance and any Lessee Improvement to any Unit of Equipment shall be made at Lessee's own cost and expense.

SECTION 8. USE AND MAINTENANCE OF THE EQUIPMENT.

The Lessee shall use or cause the use of the Equipment only in the United States, except that the Lessee may from time to time use or cause to be used in Canada Units of Equipment, *provided* that during any calendar year the total use of the Equipment in Canada shall not exceed, on an aggregate basis, more than 2% of the total aggregate use of the Equipment in the United States and Canada and, upon the request of the Lessor, the Lessee shall, for any calendar year specified in such request, furnish to the Lessor, within 60 days after such request, a certificate setting forth the aggregate use of the Equipment in Canada compared with the total aggregate use of the Equipment in the United States and Canada. The Lessee shall use the Equipment only in the manner for which

it was designed and intended. The Lessee shall, at its own cost and expense, maintain and keep the Equipment and any Modifications thereto in good order, condition and repair, ordinary wear and tear excepted, and in accordance with standards generally prevailing in the railroad industry, including making all replacements required to maintain the Equipment and any Modifications thereto in good running order. No Modification not required pursuant to Section 7 hereof shall be made by Lessee to any Unit of Equipment without the prior written consent of Lessor; *provided, however*, that if Lessor shall refuse to consent to a Modification, Lessee may exercise its purchase option pursuant to Section 22.1 hereof (subject to the terms thereof) at an option price determined pursuant to paragraph (b) thereof. The cost and expenses of any replacement, Modification or Lessee Improvement shall be borne as provided in Section 7.2 hereof. Any such replacement or Modification made by the Lessee upon any Unit of Equipment (except radio equipment or devices having similar use which have been added to any such Unit of Equipment by Lessee, the cost of which is not included in the Acquisition Cost of such Unit) shall be considered accessions to such Unit of Equipment and title thereto shall be immediately vested in the Lessor; *provided* that the Lessee shall be entitled to remove any such accession so long as such removal is not inconsistent with the Lessee's obligations under this Section 8 or under Section 7 hereof.

SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee shall pay or satisfy and discharge any and all claims (other than the security interest of the Vendor or claims resulting from an act of the Lessor or any Trustor) which, if unpaid, might constitute or become a lien, security interest or a charge upon the Equipment or any Unit thereof, and any liens, security interest or charges which may be levied against or imposed upon any Unit of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims, so long as it shall, in good faith and by appropriate administrative or legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment. The Lessee's obligations under this Section 9 shall survive termination of this Lease.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due or 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.

SECTION 10. FILING, PAYMENT OF FEES AND TAXES.

10.1 *Filing*. In addition to satisfying the condition precedent in Section 4.3 of the Participation Agreement (as defined in Section 14 hereof), the Lessee will, from time to time, do and perform any act and will execute, acknowledge, deliver, file, register and record (and will re-file, re-register, or re-record whenever required) any and all instruments reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to, or the security interest granted to any assignee under Section 18 hereof in, the Equipment to the reasonable satisfaction of the Lessor's or such assignee's counsel or for the purpose of carrying out the intention of this Lease. The Lessee will promptly furnish to the Lessor and any assignee thereof hereunder evidence of all such filings, registering, recording, depositing, refiling, re-registering, re-recording and/or re-depositing and an opinion or opinions of counsel for the Lessee with respect thereto reasonably satisfactory to the Lessor and any assignee thereof hereunder. The Lessee will pay all costs, charges and expenses incident to any such filing, refiling, registering, re-registering, recording and re-recording of any such instruments or incident to the taking of such action.

10.2 *Payment of Taxes*. In addition to all payments to be made by the Lessee hereunder, the Lessee shall, subject to the exclusion hereinafter set forth, bear the full expense of and, unless pre-

cluded by law, remit directly to the proper governmental authority all taxes, fees, assessments, duties, imposts, withholdings, or other charges (hereinafter collectively referred to as "Imposts") levied or imposed on the Lessor; the Lessee, any Trustor, or any Unit of Equipment by the United States, any state or foreign government, and any agency, instrumentality, political subdivision or unit of the United States, any state or foreign government, which Imposts are upon or with respect to, arising from or in connection with or measured by this Lease, the Conditional Sale Agreement, Agreement and Assignment, the Assignment of Lease and Agreement, the Participation Agreement or the Sale and Lease Back Agreement, including any document contemplated thereby (all such agreements and documents being herein referred to collectively as the "Documents"), or any purchase, sale, rental, use, ownership, possession, operation, payment, shipment, delivery, re-delivery or transfer of title of any property or Unit of Equipment under the terms hereof or of the Documents, or upon the rentals or receipts arising therefrom.

The Lessee's obligation to bear and remit Imposts under this Section 10.2 shall not include:

(i) United States federal income tax payable by any Trustor or the Lessor.

(ii) State, city, or local income taxes or franchise taxes on, or measured by, net income of Lessor or any Trustor.

In the event Lessor is required to and does make any payment under this Section 10.2, Lessee shall pay the person indemnified an amount which, after taking into account all taxes required to be paid by such person in respect of the receipt thereof under the laws of the United States or a foreign, state or local government taxing authority (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expenses indemnified against, and of any other such taxes), shall be equal to the amount of such payment. The sum payable pursuant to this Section 10.2 shall be payable thirty (30) days after the person to be indemnified delivers to Lessee the verification reasonably satisfactory to Lessee that indemnity is due pursuant to this paragraph for such person, including without limitation, a statement describing in reasonable detail the circumstances requiring indemnification hereunder, and setting forth in reasonable detail the computation of the amount thereof.

The Lessee agrees to assist the Lessor and the Trustors in the preparation, and where possible to file, on behalf of the Lessor and the Trustors, all required tax returns and reports relating to taxes for which the Lessee is responsible under this Section 10.2. The Lessor shall keep the Lessee informed of any claim made against the Lessor or any Trustor for the payment of any such tax, levy, impost, duty, charge or withholding.

The Lessee shall promptly remit all Imposts to the appropriate governmental authority within the time provided by law and will at all times keep all and every part of any Unit of Equipment free and clear of any Impost which might in any way affect the title of the Lessor or the interest of the Trustors or result in a lien upon any such Unit of Equipment; *provided, however*, that the Lessee shall be under no obligation to remit any Impost of any kind so long as it is contesting, in good faith and by appropriate legal proceedings, such Impost and the nonpayment thereof is authorized by law and does not, in the reasonable opinion of the Lessor and the Trustors, adversely affect the title, property or rights of the Lessor, the Trustors, or Federal Financing Bank hereunder. The Lessee agrees to give the Lessor and the Trustors notice of such contest within 30 days after institution thereof and the Lessor and the Trustors agree to provide information requested in writing by the Lessee as may be reasonably required by the Lessee in furtherance of said contest. If any impost shall be charged or levied against the Lessor directly (payment of which under this Section 10.2 is to be made by the Lessee) and is remitted by the Lessor, the Lessee shall reimburse the Lessor upon submission to the Lessee of reasonably satisfactory evidence thereof.

The Lessee shall be liable for all fines, penalties, interest, and other charges imposed in connection with the reporting and remittance obligations imposed on the Lessee by this Section 10.2.

In the event that during the continuance of this Lease, the Lessee becomes liable for any remittance or reimbursement pursuant to this Section 10.2, such liability shall continue, notwithstanding the expiration of this Lease, until such Impost is remitted or the Lessor is reimbursed therefor.

To the extent that the Lessee may be prohibited by law from performing in its own name the duties required by this Section 10.2, the Lessor hereby authorizes the Lessee to act in the Lessor's name and on its behalf; *provided, however*, that 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 by the Lessee pursuant to this authorization.

The Lessee shall, whenever requested by the Lessor or the Trustor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor and the Trustor of the Lessee's performance of its duties under this Section 10.2. The Lessee shall also furnish promptly upon request such data as the Lessor or the Trustor reasonably may require to permit the Lessor's compliance with the requirements of taxing authorities.

SECTION 11. PAYMENT FOR CASUALTY OCCURRENCE.

11.1 *Duty of Lessee to Notify Lessor.* In the event that during the term of this Lease or any renewal thereof or prior to the return of any Unit of Equipment pursuant to Section 13 or Section 17 hereof, any Unit of Equipment, including any Modification thereto, in the good faith opinion of the Lessee, shall be or become lost, stolen, destroyed, worn out, irreparably damaged or rendered permanently unfit for use or shall be requisitioned for use or taken over by any governmental authority under the power of eminent domain or otherwise, resulting in the loss of possession or use by the Lessee for a period of 90 consecutive days (any such occurrence being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly notify the Lessor in writing in regard thereto and specify the date said Unit of Equipment was first placed in service and the date of the Casualty Occurrence. The Lessee's obligations under this Section 11 shall survive termination of this Lease.

11.2 *Sum Payable for Casualty Loss.* The Lessee, on the rent payment date next succeeding the notification provided in Section 11.1, shall pay to the Lessor a sum equal to the Casualty Value (as defined in Section 11.5 hereof) of such Unit or Units of Equipment as to which notification is given as of the date of such payment together with the rental with respect to such Unit or Units of Equipment otherwise due on such date.

11.3 *Rent Termination.* Upon (but not until) payment of the Casualty Value in respect of any Unit or Units of Equipment on the date provided in Section 11.2 hereof, together with the rental with respect to such Unit or Units of Equipment otherwise due on such date, the obligation to pay rent for such Unit or Units of Equipment and any Modifications thereto shall terminate, but nothing in this Section 11.3 shall impair or modify the Lessee's obligation to continue to pay rent under Section 2.1 hereof for all other Units of Equipment and Modifications thereto.

11.4 *Disposition of Equipment.* The Lessee shall (unless it shall exercise the option provided in this Section 11.4), as agent for the Lessor, dispose of such Unit or Units of Equipment and Modifications thereto which have suffered a Casualty Occurrence as soon as it is able to do so for the best price obtainable. Any such disposition shall be on an "as-is," "where-is" basis without representation or warranty, express or implied. As to each separate Unit of Equipment so disposed of the Lessee may retain all amounts of such price and damages received by the Lessee by reason of such Casualty Occurrence up to the Casualty Value attributable thereto and shall remit the excess, if any (minus, to the extent it shall not exceed such excess, the fair market value of Lessee Improvements to such Unit or Units of Equipment), to the Lessor. The Lessee may, at its option, retain any such Unit of Equipment and Modifications thereto if the fair market value thereof (minus the amount to be deducted under the immediately preceding sentence), shall not exceed the Casualty Value attributable thereto, or, if such fair market value (minus such amount to be deducted under the immediately preceding

sentence) shall exceed the Casualty Value attributable thereto and the Lessee shall pay to the Lessor the amount of such excess. If the Lessee shall elect to retain any such Unit of Equipment as aforesaid, the Lessor shall deliver to the Lessee a bill of sale therefor as provided in Section 22.1 hereof.

11.5 *Casualty Value.* The Casualty Value of each Unit of Equipment shall be an amount determined as of the date the Casualty Value is paid to the Lessor under Section 11.2 hereof (and not the date of the Casualty Occurrence) equal to (a) that percentage of the Acquisition Cost of such Unit of Equipment as set forth in the Casualty Value Schedule attached hereto as Schedule B and (b) the Modification Casualty Value, if any, which shall mean for each Modification the value shown in a schedule (a "Modification Casualty Value Schedule"), that shall be agreed to before the Modification is made. Each such schedule shall reflect the assumptions and concepts which were originally used in deriving the percentage in the Casualty Value Schedule.

11.6 *Requisition for Use.* In the event that during the term of this Lease or any renewal thereof or prior to the return of any Unit of Equipment pursuant to Section 13 or Section 17 hereof, the use of any Unit of Equipment is requisitioned or taken by any governmental authority for a period not exceeding 90 consecutive days, then the Lessee's obligations under the Lease with respect to such Unit of Equipment shall continue to the same extent as if such requisition or taking had not occurred. Provided no event of default under Section 16 hereof shall have occurred and be continuing, the Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession up to an amount equal to the rent paid or payable hereunder for such period, and the balance, if any (to the extent such amount constitutes compensation for use of the Equipment, but not otherwise), shall be payable to and retained by the Lessor as its sole property.

SECTION 12. REPORTS AND INSPECTION RIGHTS.

12.1 *Annual Report and Quarterly Statements.* The Lessee shall furnish to the Lessor, promptly upon their becoming available, a copy of its annual report to the Congress of the United States, including the financial statements contained therein and, when requested by Lessor, its quarterly statements to the Interstate Commerce Commission on Forms RE and I (income statement) and CBS (balance sheet).

12.2 *Equipment Reports.* On or before April 1 in each year, commencing with the year 1976, the Lessee shall furnish to the Lessor an accurate statement, as of the preceding December 31, (a) showing the amount, description and numbers of the Units of Equipment then leased hereunder, the amount, description and numbers of the Units of Equipment that may have suffered a Casualty Occurrence during the preceding calendar year (or, in the case of the first such statement, for the portion thereof commencing with the date of this Lease), and such other information regarding the condition or repair of the Equipment as the Lessor may reasonably request, (b) describing each and every Lessee Improvement to the Equipment in excess of \$10,000, made during the preceding calendar year (or, in the case of the first such statement, for the portion thereof commencing with the date of this Lease), and (c) stating that, in the case of all Equipment repainted during the period covered by such statement, the numbers required by Section 4.2 hereof shall have been preserved or replaced.

12.3 *Lessor's Inspection Rights.* The Lessor shall have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor the existence and proper maintenance thereof during the continuance of this Lease. The foregoing right of inspection shall be subject, however, to such terms and conditions of access as may be reasonably imposed by any railroad, terminal company or other entity upon the property on which the Equipment is situate at the time of any such inspection. Lessor and each Trustor hereby jointly and severally agree to indemnify and hold harmless the Lessee, its affiliates, directors, officers, agents, employees, servants and contractors

from and against any claim, cause of action, damages, liability, cost or expense (including counsel fees and costs in connection therewith) which may be incurred in any manner (whether arising from personal injury, property damage or otherwise), *provided, however*, that nothing in this Section 12.3 shall be construed as imposing any obligation on Lessor to conduct inspections or to discover any defect in the Equipment nor as imposing on Lessor any duty other than the duty to indemnify as expressly provided hereinabove.

SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease with respect to any Unit of Equipment, the Lessee will, at its own cost and expense deliver such Unit of Equipment to the Lessor upon such tracks as the Lessor shall reasonably designate (and as to which the Lessee then has a contractual right of access), and the Lessee will arrange for the storage of such Unit of Equipment on such tracks for a period not exceeding 90 days, all as directed by the Lessor upon not less than 30 days' notice to the Lessee. All movement and storage of each such Unit is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit to inspect the same, but only on the terms and conditions set forth in Section 12.3 hereof, which Section the Lessor shall cause to be applicable to any such prospective purchaser and any such authorized representative. The making available, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so make available, store and transport the Equipment. During the storage period the Lessee shall maintain insurance on such Unit of Equipment in accordance with Section 20 hereof.

SECTION 14. LESSEE'S REPRESENTATIONS AND WARRANTIES.

The Lessee represents and warrants that:

(a) The Lessee is a corporation duly organized under the Rail Passenger Service Act, as amended, and the laws of the District of Columbia, is in good standing under the laws of the District of Columbia and believes with good reason that it is not required to qualify to do business as a foreign corporation in any State.

(b) The Lessee has the corporate power, authority and legal right to execute and deliver this Lease, to lease the Equipment hereunder, and to execute and deliver the Conditional Sale Agreement (including the Certificates of Acceptance provided for thereunder), the Sale and Lease Back Agreement dated as of June 1, 1975, between the Lessor and the Lessee (herein "Sale and Lease Back Agreement") and the Participation Agreement dated as of June 1, 1975, among Lessor, Lessee, the Trustors, the Administrator and Federal Financing Bank (herein the "Participation Agreement") and to perform its obligations hereunder and thereunder.

(c) The execution and delivery of this Lease, the Conditional Sale Agreement (including such Certificates of Acceptance), the Sale and Lease Back Agreement and the Participation Agreement by the Lessee, and the performance by the Lessee of its obligations hereunder and thereunder, are not in violation of the articles of incorporation or bylaws of the Lessee or, to the knowledge of Lessee, of any indenture, mortgage, contract or other agreement to which the Lessee is a party or by which it is bound or of any law, governmental rule, regulation, order, judgment, license or other instrument applicable to the Lessee.

(d) The execution, delivery and performance of this Lease, the Conditional Sale Agreement (including such Certificates of Acceptance), the Sale and Lease Back Agreement and the Participation Agreement by the Lessee and the consummation by the Lessee of the transactions contemplated hereby and thereby do not require the consent, approval or authorization of, or notice to, any Federal, District of Columbia or Canadian authority, or, to the Lessee's belief, any other governmental authority.

(e) This Lease, the Conditional Sale Agreement, the Sale and Lease Back Agreement and the Participation Agreement are, and the Certificates of Acceptance will be when entered into, legal, valid and binding obligations of the Lessee enforceable against the Lessee in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization and similar laws affecting the rights and remedies of lessors, creditors and secured parties.

(f) Each Unit of Equipment will constitute "new section 38 property" within the meaning of Section 48(b) of the Code at the time of delivery of the Equipment to the Lessor under the Sale and Lease Back Agreement, the Equipment will not have been placed in service by the Lessee and no person will have claimed any investment credit or amortization or depreciation deductions with respect thereto; and each Unit of Equipment will be placed in service on or before December 31, 1975, within the meaning of Section 1.46-3(d) of the Income Tax Regulations.

(g) Each Unit of Equipment on the date of delivery thereof to the Lessor has a useful life of at least four years beyond the expiration of the term of the Lease and estimated to have a fair market value at the end of the term of the Lease of at least 20% of the Acquisition Cost of such Unit of Equipment.

(h) To Lessee's knowledge and belief, all information or data supplied from time to time by the Lessee in writing to the Trustors or Lessor or the Internal Revenue Service in connection with a Request for Tax Rulings, including but without limitation, all facts relating to the intended use of the Equipment, is and shall continue to be complete and accurate.

SECTION 15. INDEMNIFICATION FOR LOSS OF CERTAIN TAX BENEFITS.

15.1 *Tax Indemnities.* If for any reason (other than for the reasons set forth in Section 15.2 hereof) any Trustor shall lose, or shall not have, or shall lose the right to claim, or shall suffer disallowance of or shall be required to recapture for income tax purposes (any such event being hereinafter called a "Loss") (i) all or any portion of its pro rata share of the accelerated depreciation deductions (with a basis equal to at least 100% of the Acquisition Cost without regard to salvage value computed on the basis of any of the methods set forth in Section 167(b)(2), (3) or (4) of the Internal Revenue Code of 1954 (including at the option of Trustors, employing the double declining balance method of depreciation, and switching to the sum-of-the-year's-digits method and then to the straight-line method when most beneficial to the Trustors all without the consent of the Commissioner of Internal Revenue) and under circumstances where the Equipment shall constitute eligible property in accordance with Section 1.167(a)-11 of the Income Tax Regulations and utilizing the 12-year depreciable life prescribed for the Equipment in the Asset Guidelines Class No. 00.25 in accordance with Section 167(m) of the Internal Revenue Code and eligible for the "half-year convention" and "modified half-year convention" as provided in Section 1.167(a)-11 of the Income Tax Regulations, (ii) all or any portion of its pro rata portion of interest amounts paid or accrued with respect to the Conditional Sales Indebtedness pursuant to Section 163 of the Code, (iii) all or any portion of its pro rata share of ten percent (10%) investment tax credit in 1975 pursuant to Section 38 and related Sections of the Code, or (iv) all or any portion of its pro rata share of the rent payable hereunder as income from sources within the United States as provided in Section 861 of the Code (such items hereinafter referred to as the "Tax Benefits") or any Tax Benefits warranted with respect to any Modification, and if, as the result thereof, (a) a Trustor suffers an increase in the amount of income tax payable in any taxable year that would not otherwise have been payable in such taxable year, the Lessee shall pay to such Trustor an amount as set forth below in subparagraph (A) hereof, or (b) a Trustor realizes in any taxable year a reduction in the amount of income tax payable that would have otherwise been payable (including, without limitation, a decrease in gain or increase in loss recognized on the disposition of the Equipment or any Unit thereof or on the disposition of an interest in the Trust or any part of the estate thereof), such Trustor shall pay the Lessee a sum as set forth below in subparagraph (B) hereof:

(A) With respect to such increase in income tax payable to such Trustor, the Lessee shall pay to such Trustor an amount which (x) after taking into account all taxes, levies, imposts, duties, charges, or withholdings, and any interest or penalties thereon, under the laws of any federal, foreign, state or local government or taxing authority (all such taxes, levies, imposts, duties, charges or withholdings, and any interest or penalties thereon, hereinafter referred to in this Section 15 as "Charges") required to be paid by such Trustor in respect of the receipt of such payment, and (y) after taking into account any tax benefits to such Trustor resulting from such Trustor having paid any amount in respect to which payment from Lessee is required pursuant to this subparagraph (A), (z) shall be equal to such increase in income tax payable by such Trustor. The sum payable pursuant to this subparagraph (A) shall be payable on the Lease Term Commencement Date or thirty (30) days after such Trustor delivers to Lessee verification of such Loss reasonably satisfactory to Lessee, including without limitation, a statement describing in reasonable detail the Loss and the computation of the amount so payable, whichever first occurs, *provided, however*, that Lessee's obligation under this Section 15.1 shall terminate in the event Lessee purchases the Equipment pursuant to its purchase option under Section 22.1(a).

(B) With respect to such realization by such Trustor of a reduction in income tax payable, such Trustor shall pay to the Lessee an amount which (x) after taking into account all reductions in Charges required to be paid by such Trustor as a result of or in connection with a payment to be made by such Trustor pursuant to subparagraph (B) and (y) after taking into account any increase in Charges resulting from such Trustor having made such payments (z) shall be equal to the amount of such reduction in income tax payable by such Trustor. On realizing any such reduction in income tax payable, such Trustor shall so inform Lessee as promptly as reasonably practicable and shall provide Lessee with verification reasonably satisfactory to Lessee of the amount of such reduction, including without limitation, a statement describing in reasonable detail such reduction and the computation of the amount thereof. The sum payable pursuant to this subparagraph (B) shall be payable on the 15th day of the third month following the close of the taxable year with respect to which such reduction in income tax payable is realized.

15.2 *Limitations on Tax Indemnities for Acts of the Lessor or the Trustors.* Anything in Section 15.1 hereof to the contrary notwithstanding, no payment shall be payable by Lessee to a Trustor and the other consequences of any such Loss as provided in Section 15.1 shall not occur, if and to the extent the Trustor shall have lost, or shall not have, or shall have lost the right to claim, or shall have suffered a disallowance of, or shall have been required to recapture all or any portion of the Tax Benefits indemnified in Section 15.1, as a direct result solely of the occurrence of any of, or combination of, the following events, acts or conditions:

(a) A transfer or other disposition by the Lessor or any Trustor of any interest in any Unit of Equipment, including any Modification thereto, unless a Event of Default shall have occurred and be continuing; *provided, however*, that the execution and delivery of the Documents (as defined in Section 10.2 hereof), including any document contemplated hereby or thereby in the carrying out of the transactions contemplated herein and therein and the use, operation, possession and maintenance of the Equipment as contemplated in this Lease shall not be deemed to have caused the loss of such tax benefits under this clause (a);

(b) The failure of Lessor or any Trustor to claim in a timely manner the Tax Benefits indemnified in this Section 15, or to make any timely or appropriate election of or in connection with the same, or to take any action appropriate or necessary to the availability of the same;

(c) The failure of Lessor or any Trustor to have sufficient liability for income tax against which to credit such investment credit or sufficient income to benefit from such depreciation or interest deductions, as applicable;

(d) The failure of Lessor or any Trustor to notify Lessee of or to take timely action in contesting a claim made or action taken by the Internal Revenue Service with respect to the disallowance of such

Tax Benefits, the failure to give such notice or take such action in a timely manner shall have precluded the right of Lessee to contest such claim or action, or a failure on the part of Lessor or any Trustor to take action to contest any such claim after a timely request to conduct such contest has been given by Lessee to Lessor pursuant to Section 15.5 hereof, or the release, waiver, compromise or settlement of any action or proceeding taken pursuant to Section 15.5 hereof by Lessor or any Trustor without the prior written consent of Lessee.

15.3 Limitation on Tax Indemnities After the Receipt of a Favorable Tax Ruling. If the Trustors and the Lessee shall receive a favorable tax ruling from the Internal Revenue Service stating that the Trustors shall be entitled to all of the Tax Benefits (as defined in Section 15.1 hereof), anything in Sections 15.1 or 15.2 hereof to the contrary notwithstanding, payment shall be payable by Lessee to a Trustor and the other consequences of any such Loss as provided in Section 15.1 shall occur only if such Loss was caused by any act or failure to act of Lessee whatsoever, including, without limitation, the following:

(a) Any information furnished by the Lessee to the Lessor or any Trustor for uses relating to an Internal Revenue Service Ruling obtained pursuant to Section 15.1 of the Participation Agreement (and certified by an officer of the Lessee) proving to be fraudulent, untrue, incorrect, inaccurate, misleading, unreasonable or insufficient in whole or in part;

(b) The Lessee, or any officer, employee, agent or counsel thereof, failing to state any material fact in connection with the obtaining of such Ruling;

(c) The Lessee, or any officer, employee, agent or counsel thereof, taking or failing to take any action whatsoever (including, without limitation, any action in respect of the Lessee's income tax returns) which is inconsistent with or in contravention of any of the matters set forth in such Ruling or which constitutes a breach of any representation or warranty set forth in clauses (f) and (g) of Section 14 hereof; or

(d) The Lessee, or any officer, employee or agent thereof using or otherwise dealing with or causing or permitting any other person to use or operate or deal with the Equipment in any manner which will result in a loss of any Tax Benefits (as defined in Section 15.1 hereof) to the extent such use, operation or dealing would cause such loss under the Internal Revenue Code and the Income Tax Regulations promulgated thereunder.

15.4 Consolidated Returns. Wherever within this Section 15 reference is made to the income tax liability, or the income tax return of a Trustor, such reference shall for any taxable year of such Trustor for which the Trustor is a member of an affiliated group of domestic corporations which file a consolidated income tax return and which such Trustor joins, be deemed to refer to the consolidated income tax liability of such group or to the consolidated income tax return of such group, as the case may be.

15.5 Contest of Loss of Tax Benefits. In the event that the Lessee requests that a Loss of Tax Benefits be contested (or in the event that the parties shall mutually agree to such contest), (a) the Trustors agree to take such action in respect to such contest as the Lessee shall reasonably request in writing from time to time and to keep the Lessee informed as to the progress of such contest, but only if the Lessee shall have (i) made provision to reimburse the Trustors in a manner satisfactory to them for all reasonable costs and expenses (including, without limitation, legal fees and expenses) which the Trustors may incur in connection with such contest and (ii) in the event that the Lessee shall have requested the Trustors to contest a Loss of Tax Benefits (with which request the Trustors do not agree), furnished the Trustors with an opinion of independent tax counsel, reasonably satisfactory to the Trustors, to the effect that a reasonable defense exists to such claim and (b) the Lessee shall have the right to approve counsel for the Trustors, which approval shall not be unreasonably withheld; *provided, however*, that each Trustor, at its sole option, may forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such contest and may, at its sole option, either pay the tax claimed and sue for a refund in the appropriate United

States District Court or the United States Court of Claims, as such Trustor shall elect, or contest such claim in the United States Tax Court, considering, however, in good faith such request as the Lessee shall make concerning the most appropriate forum in which to proceed.

15.6 *Expenses.* In the event that a Loss of Tax Benefits is contested pursuant to Section 15.5 hereof, Lessee agrees to reimburse Lessor and each Trustor for the reasonable costs and expenses (including without limitation legal fees and expenses) which Lessor or each Trustor may incur in connection with such contest.

SECTION 16. EVENTS OF DEFAULT.

(a) The following shall be events of default hereunder:

(i) Default, and continuance thereof for 10 days, in the payment of any rent or other amount hereunder;

(ii) The Lessee shall, for more than 30 days after the Lessor shall have demanded in writing thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Lease or of any agreement entered into concurrently herewith relating to the financing of the Equipment on its part to be kept or performed or to make provision satisfactory to the Lessor for such compliance;

(iii) Any representation or warranty made by the Lessee in Section 14 of this Lease is untrue in any material respect, or any statement, report, schedule, notice, or other writing furnished by the Lessee to the Lessor in connection herewith is untrue in any material respect, on the date as of which the facts set forth are represented, warranted, stated or certified;

(iv) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 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 this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier;

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

(vi) The Lessee shall make or permit any unauthorized assignment or transfer of this Lease or any interest herein or any unauthorized transfer of the right to possession of any Unit of the Equipment; or

(vii) The Government Guaranty shall, for any reason, cease to be in full force and effect; or

(viii) An event of default shall have occurred under the Conditional Sale Agreement arising out of the failure of Lessee to perform its obligations under this Lease.

When used herein, unless the context otherwise requires, the term "event of default" shall mean any event described in the foregoing clauses (i) through (viii) and the term "event which might mature into an event of default" shall mean any event which with the lapse of time, or with notice to the Lessee and lapse of time, would constitute an event of default. To the extent of its knowledge thereof, the Lessee shall give the Lessor prompt notice of any event of default or of any event which might mature into an event of default.

(b) Upon the happening of an event of default, the Lessor shall (except to the extent otherwise required by law) be entitled to:

(1) Proceed by appropriate court action or actions to enforce performance by the Lessee of the applicable covenants and terms of this Lease or to recover damages for the breach thereof;

(2) Repossess any or all Units of Equipment without prejudice to any remedy or claim hereinafter referred to;

(3) Elect to sell at one or more public or private sales or relet any or all Units of Equipment, after giving 30 days' notice to the Lessee, and recover from the Lessee as liquidated damages for the Lessee's default hereunder an amount equal to the amount, if any, by which (A) the sum of (i) the aggregate of the applicable amount set forth in the schedule attached hereto as Schedule B (herein "Schedule B") of such Units of Equipment on the date such notice is given, (ii) all rent owing or accrued hereunder to and including the date such notice is given, (iii) all costs and expense (including sales tax) reasonably incurred in searching for, taking, removing, keeping, storing, repairing, restoring and selling such Units of Equipment, (iv) all other amounts owing by the Lessee hereunder, whether as additional rent, indemnification or otherwise, and (v) all reasonable costs and expenses (including without limitation legal fees and expenses) incurred by the Lessor as a result of the Lessee's default hereunder, exceeds (B) the amount received by the Lessor upon such public or private sales of such Units of Equipment and the greater of the fair rental value of or the aggregate rent contracted for any Units relet by Lessor, discounted to present worth at the rate of 7.92% per annum;

(4) Upon notice to the Lessee receive prompt payment from Lessee of an amount equal to the aggregate of the applicable amount set forth in Schedule B computed as of the rent payment date next preceding the date such notice is given of all Items of Equipment which have not been sold or relet by the Lessor pursuant to Section 16(b)(3) above plus, to the extent not otherwise recovered from the Lessee pursuant to said Section 16(b)(3) above, (i) any rent owing or accrued hereunder to and including the date such notice is given, (ii) all costs and expenses reasonably incurred in searching for, taking, removing, keeping, storing, repairing and restoring such Units of Equipment, (iii) all other amounts owing by the Lessee hereunder, whether as additional rent, indemnification or otherwise, and (iv) all reasonable costs and expenses, including, without limitation, legal fees and expenses, incurred by the Lessor as a result of the Lessee's default hereunder; *provided* that upon receipt of payment in full of such amount, the Lessor shall deliver to the Lessee a bill of sale for the Units of Equipment and Modifications thereto then subject to this Lease as provided in Section 22.1 hereof;

(5) By notice to the Lessee declare this Lease terminated without prejudice to the Lessor's rights in respect of obligations then accrued and remaining unsatisfied; or

(6) Avail itself of any other remedy or remedies provided for by any statute or otherwise available at law, in equity or in bankruptcy or insolvency proceedings.

The remedies herein set forth or referred to shall be cumulative. The references to additional rent in clauses 3 and 4 of this paragraph (b) shall each include, without limitation, interest at the Overdue Rate (as defined in Section 21 hereof), to the date of receipt by the Lessor of the amount payable under said clause, on installments of rent owing hereunder to and including the rent payment date immediately preceding the date on which notice is given under said clause, from the respective due dates of such installments, and interest at said rate on all other reasonable costs, expenses and losses for which the Lessor is entitled to payment under said clause from the respective dates incurred by the Lessor.

The Lessee hereby waives any requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided to the extent such waiver is permitted by law. The failure of the Lessor to exercise the rights granted hereinbefore upon the occurrence of any event of default shall not constitute a waiver of any such right upon the continuation or recurrence of any such event of default.

It is agreed that the rights and remedies of the Lessor hereunder shall be subject to the rights and remedies of the Federal Financing Bank.

SECTION 17. RETURN OF EQUIPMENT UPON DEFAULT.

17.1 *Lessee's Duty to Return.* If the Lessor shall terminate this Lease pursuant to Section 16 hereof, the Lessee shall forthwith deliver the Equipment including each Modification thereto to the Lessor and store and transport the Equipment as provided in Section 13 hereof.

17.2 *Specific Performance.* The making available, storage and transporting of the Equipment as provided in this Section 17 are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so deliver, store and transport the Equipment.

17.3 *Lessor Appointed Lessee's Agent.* Without in any way limiting the obligations of the Lessee under the foregoing provisions of this Section 17, the Lessee (to the extent of its corporate power) hereby irrevocably appoints the Lessor as the agent and attorney of Lessee, with full power and authority, at any time while the Lessee is obligated to make available any Units of Equipment to the Lessor pursuant to Section 16 hereof, to demand and take possession of such Unit in the name and on the behalf of the Lessee from whomsoever shall be at the time in possession of the Item.

SECTION 18. ASSIGNMENTS BY LESSOR: SUCCESSOR TRUSTEES.

18.1 *Assignments by Lessor.* The benefits of this Lease shall be assignable (but only as an entirety) by the Lessor without the consent of the Lessee to a single institutional corporate agent or trustee acting for institutional corporate lenders, or to a single institutional corporate lender, of recognized standing, or to any agency or instrumentality of the United States Government, 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 any such assignment by the Lessor (other than to Federal Financing Bank as collateral security pursuant to the "Assignment of Lease and Agreement" dated as of June 1, 1975, between Lessor and Federal Financing Bank, Federal Financing Bank its successors and assigns herein referred to as "Federal Financing Bank"), shall make appropriate provision for the assumption by the assignee of the obligations of the Lessor under the Sale and Lease Back Agreement. Upon notice to the Lessee of any such assignment the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to the assignee at the place and in the manner set forth in Section 2.3. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in the Lessor's title (except for any defect or failure of title resulting from acts or omissions of the Lessor), or any interruption from whatsoever cause (other than from a wrongful act of the Lessor or the assignee) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever, and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except as aforesaid, the Lessee shall be unconditionally and absolutely obligated to pay the assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the

assignee shall have the sole right (except as otherwise provided in such assignment) to exercise all rights, privileges, and remedies (either in its own name or in the name of the Lessor for the use and benefit of the assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor. The term "Lessor" as used in this Lease shall mean the original Lessor, any permitted assignee and any successor trustee appointed in accordance with the provisions of Section 18.2 hereof.

18.2 *Successor Trustees.* The Lessee agrees that in the case of the appointment of any successor trustee in accordance with the terms of the Trust Agreement, such successor trustee shall, upon written notice of such appointment to the Lessee by the Lessor, succeed to all the rights, powers and title (subject to the obligations) of the Lessor hereunder, without the necessity of any consent or approval by the Lessee and without in any way altering the terms of this Lease or the Lessee's obligations hereunder. One such appointment of a successor trustee shall not preclude the further appointment of successor trustees. Any successor trustee shall be a bank or trust company organized under the laws of the United States or of any state thereof, having a combined capital and surplus of at least \$50,000,000 and a member of the Federal Reserve System.

SECTION 19. ASSIGNMENTS BY LESSEE; USE AND POSSESSION.

19.1 *Lessee's Rights to the Equipment.* So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, subject to Section 19.2 hereof, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment. The Lessee shall not sublease any Unit of Equipment or, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the provisions of Section 19.2 hereof.

19.2 *Use and Possession by Lessee.* So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and/or use of the Equipment (by itself or by others on its behalf) in accordance with the terms hereof upon the rail lines over which the Lessee conducts, or has conducted for it, rail passenger service.

19.3 *Merger, Consolidation or Acquisition of Lessee.* Lessee may assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation, governmental agency or other entity (which shall have duly assumed the obligations hereunder of the Lessee), into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety.

SECTION 20. INSURANCE.

20.1 *Lessee's Covenant to Carry Insurance.* The Lessee will cause to be carried and maintained at all times and at its own expense during the term of this Lease physical damage insurance and public liability insurance (which includes, but is not limited to, liability for property damage and/or personal injury) covering the Equipment and Modifications thereto in the names of the Lessor, Trustors, Federal Financing Bank and Lessee (as their interest may appear) in such form as is commonly maintained on comparable equipment by companies similarly situated. In all events the Lessee will cause to be carried and maintained in the name of the Lessor, Trustors, Federal Financing Bank and Lessee (as their interests may appear) insurance against all risks of physical damage to the Equipment as provided under a standard all-risk policy. Such standard all-risk physical damage insurance policy or policies shall provide that all losses thereunder will be adjusted with the Lessor, Trustors, Federal Financing Bank and Lessee and will be payable to the Lessor, Trustors, Federal Financing Bank and Lessee as their respective interests shall appear. It is agreed that the standard all-risk physical damage policy or policies shall provide coverage of at least \$5,000,000 for each occurrence and may provide for a deductible of not more than \$500,000 with respect to any one loss (provided, however, that such policy or policies may provide for a deductible of not more than \$1,000,000 with respect to any one

loss, if such policy or policies shall provide for coverage of at least \$10,000,000 for each occurrence) and that the public liability policy or policies shall provide coverage of at least \$48,000,000 for each occurrence and may provide for a deductible of not more than \$2,000,000 with respect to any one loss. Any net insurance proceeds resulting from insurance carried by the Lessee received by the Lessor in respect of Units of Equipment suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of any Casualty Occurrence pursuant to Section 11 hereof. If the Lessor shall receive any such net insurance proceeds after the Lessee shall have made payments pursuant to Section 11 hereof, without deduction for such net insurance proceeds, the Lessor shall pay such proceeds 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 shall remain the property of the Lessor.

20.2 *Evidence of Insurance.* The policies of insurance required under this Section 20 shall be valid and enforceable policies issued by insurers of recognized responsibility reasonably acceptable to the Lessor. Evidence in the form of an Insurance Certificate and related endorsements of each and every policy shall be provided to Lessor, Federal Financing Bank and each Trustor on or before the Closing Date for the first Unit or Units of Equipment. Lessee shall satisfy Lessor that the above-described insurance is fully in effect on each Unit of Equipment, to the extent applicable, on the Closing Date of each Unit of Equipment. "Insurance Certificate" shall mean a certificate with respect to the insurance required to be maintained pursuant to Section 20 hereof, signed by an independent insurance broker (who may be the broker regularly retained by Lessee) reasonably acceptable to Lessor, which shall describe the risks covered by each policy of insurance then in force covering risks related to the Equipment, identify the insurer with which such policies of insurance are carried and maintained, specify the amount of insurance coverage provided against each such risk or class of risk, and state that all such policies of insurance comply in all respects with the provisions of Section 20 of this Lease.

Lessor's acknowledged acceptance of, its failure to object in writing within 45 days following receipt to, or its action on, such a certificate shall be sufficient evidence that such certificate is acceptable to Lessor.

The original policies, which shall be available for inspection by the Lessor at the Lessee's Washington, D. C., office upon reasonable request, may be blanket policies covering other equipment not covered by this Lease provided that any blanket policy shall, in the Endorsements provided herein, specifically designate the Units of Equipment as being included therein and covered thereby to the full extent of the amounts herein required and shall name the Lessor, Trustors and Federal Financing Bank as insured parties thereunder with respect to such Units of Equipment. All such policies shall:

(a) Contain an agreement by the insurers that such policies shall not be cancelled or the amount of coverage thereof or persons covered thereunder be adversely changed without at least 30 days' prior written notice to the Lessor and Federal Financing Bank by the insurers or the insurers' authorized representative, as the case may be;

(b) Contain a breach or violation of warranties, declarations, or conditions clause which shall provide that the interests of the Lessor and the Trustor thereunder shall not be rescinded, impaired, or invalidated by an act or omission of the Lessee or any other person;

(c) Not contain a limitation on the amount payable thereunder with respect to the use of the Equipment for purposes other than those permitted by the terms of the policy, any change in title or ownership of the Equipment or any foreclosure or other proceeding or notice of sale relating to the Equipment, this Lease, or the Agreement and Assignment;

(d) Be primary without right of contribution from any other insurance which is carried by Lessor, any Trustor or Federal Financing Bank and shall expressly provide that all provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering each insured; and

(e) Each such policy shall waive any right of subrogation of the insurers to any right of the Lessor, Lessee, any Trustor or Federal Financing Bank against any person insured under such policy and shall waive any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of the Trustor, Federal Financing Bank, the Lessor or the Lessee.

SECTION 21. INTEREST ON OVERDUE RENTALS AND AMOUNTS PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding, any nonpayment of amounts due hereunder, or amounts reasonably expended by the Lessor on behalf of the Lessee, shall result in the obligation on the part of the Lessee to pay also, as additional rent hereunder, interest (at the rate as provided in paragraph (a) or (b) of this Section 21 and herein the "Overdue Rate") on the overdue amounts and such amounts so expended for the period of time during which they are overdue or expended and not repaid as follows:

(a) On overdue amounts (other than interim rent and the first twenty-six installments of periodic rent payable under Section 2.1(a) and (b) hereof) and amounts expended by Lessor on behalf of the Lessee, at a rate equal to the lesser of the following per annum rates (computed on the basis of a 365-day year): the highest rate then permitted by law or the rate equal to the sum of (i) 69.75% multiplied by the Debt Rate (as defined in the Conditional Sale Agreement) plus (ii) 6.4758%, on such amounts;

(b) On overdue amounts of interim rent and the first twenty-six installments of periodic rent payable under Section 2.1(a) and (b) hereof, at a rate equal to the lesser of the following per annum rates (computed on the basis of a 365-day year); the highest rate then permitted by law or the rate equal to the sum of (i) 69.75% multiplied by the Debt Rate (as defined in the Conditional Sale Agreement) plus (ii) 3.63%, on such overdue rent.

SECTION 22. OPTIONS TO PURCHASE AND RENEW.

22.1 *Option to Purchase.* Provided that the Lessee is not in default, the Lessee shall have the following options to purchase all but not less than all of the Equipment and Modifications thereto:

(a) Pursuant to Section 3 hereof, at an option price equal to the greater of (i) the fair market value of the Equipment or (ii) the sum of (A) the Acquisition Cost of the Equipment, (B) all interim rent on the Equipment accrued to the Term Lease Commencement Date, (C) the amount of all out-of-pocket expenses, including attorneys fees and brokers fees, in the amount of 0.65% of the total Acquisition Cost specified in Section 1.1 hereof, incurred by the Trustors in connection with the negotiation of the documents and the implementation of the transactions contemplated thereby, and (D) by reason of Lessee's exercise of this option to purchase, the amount of all out-of-pocket expenses, including without limitation, attorney's and appraiser's fees reasonably incurred by Lessor by reason of Lessee's exercise of this option to purchase, (but not including any indemnity for Tax Benefits as defined herein), less (iii) the amount of the Conditional Sale Indebtedness not previously paid. The purchase price payable hereunder shall be due and payable on the Term Lease Commencement Date.

(b) Pursuant to Sections 7 and 8 hereof at an option price equal to the greater of (i) the fair market value (as hereinafter defined) of the Equipment or (ii) the sum of (A) the aggregate of the applicable amount for each Unit of Equipment as set forth in Schedule C (computed as of the rent payment date next preceding the date notice of Lessee's election to exercise its purchase option is given to Lessor) and (B) all rent accruing to the rent payment date next succeeding the notice to Lessor of Lessee's election to exercise its purchase option, less (iii) the amount of the Conditional Sale Indebtedness not previously paid. The option price shall be due and payable on said rent payment date.

(c) At the expiration of the term of this Lease (including any renewal term) at an option price equal to the fair market value (as hereinafter defined). The Lessee shall give the Lessor notice 180

days prior to the end of the term of its election to exercise the purchase option provided for in this paragraph. Unless the Lessee has given the Lessor 180 days' notice as required in connection with exercise of this option, all the Equipment then leased hereunder shall be returned to the Lessor in accordance with Section 13 hereof.

Payment of the option price shall be made at the place of payment specified in Section 2 hereof in funds then current against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Equipment and containing Lessor's Warranty, but without any other representation or warranty, express or implied, as to the condition of the Equipment or any other matters. Notwithstanding the giving of notice to Lessor by the Lessee of its election to exercise a purchase option, the Lessee shall not be obligated to purchase the Equipment *provided* the Lessee shall have advised the Lessor within 15 days after the determination of an option price under this Section 22.1 that the Lessee has decided not to purchase the Equipment, and shall have paid Lessor all costs and expenses, including without limitation attorney's fees, incurred by Lessor by reason of Lessee's election to exercise a purchase option.

The "fair market value" shall be an amount mutually agreed upon by the Lessor and the Lessee; *provided* that if the Lessor and the Lessee are unable to agree upon the fair market value of the Equipment within 30 days after receipt by the Lessor of the notice of the Lessee's election to exercise its purchase option, the fair market value shall be determined by an appraiser selected by mutual agreement of the Lessor and the Lessee. If the Lessor and the Lessee are not able to agree upon an appraiser, or if the fair market value is not so determined within 90 days after receipt by the Lessor of the Lessee's election to purchase, the same shall be determined by American Appraisal Company or its successor. Costs and expenses incurred in connection with any such appraisal shall be borne by the Lessee.

There shall be deducted from the fair market value determined hereunder an amount equal to the portion of the fair market value of the Equipment which is attributable to any Lessee Improvement which resulted in an increase in the fair market value of the Equipment, determined as above provided, as of the date of determination, as compared with the fair market value the Equipment would have had, as of the date of determination, without such Lessee Improvement, determined as above provided. The term "fair market value of a Lessee improvement" shall mean, when used elsewhere in this Lease, the portion of the fair market value of a Unit of Equipment which is attributable to any Lessee Improvement, determined as aforesaid.

In the event that Lessee does not exercise its option to purchase pursuant to this Section 22, at the termination of this Lease, or any renewal thereof, Lessor may, but shall not be required to, purchase any or all Lessee Improvements. Lessor shall make payment to Lessee for any such Lessee Improvements Lessor elects to purchase pursuant to this paragraph, an amount equal to the fair market value of such Lessee Improvement as determined under this Section 22.1.

Notwithstanding any election of the Lessee to purchase, the provisions of Section 11 hereof shall continue in full force and effect until the date of purchase and the passage of ownership of the Equipment purchased by the Lessee upon the date of purchase; *provided, however*, that with respect to any Casualty Occurrence occurring after notice to Lessor of Lessee's election to exercise a purchase option, if the option price has been agreed upon by the parties pursuant to this Section 22, such option price shall govern the amount of the payment to be made in the event of a Casualty Occurrence.

22.2 Option to Renew. Provided that the Lessee is not in default, the Lessee shall have the following renewal options:

(a) The Lessee shall have the option to renew and extend this Lease as to such Units of Equipment as it may elect for four additional renewal terms of one year each upon and subject to the terms and conditions herein contained for the original term of this Lease excepting only that the Periodic Rent for each such renewal term, which shall be payable semiannually in arrears during each such

term, shall be an amount equal to the "fair market rental value" (as hereinafter defined) of such Equipment including Modifications thereto. Each such renewal term shall commence immediately upon the expiration of the preceding term. The Lessee shall give the Lessor notice not less than 180 days prior to the end of the original term or of the then current renewal term of its election to exercise any renewal option provided for by this Section 22.2. Notwithstanding the giving of any notice by the Lessee as aforesaid, the Lessee shall not be obligated to renew and extend this Lease for the renewal term covered by such notice if the Lessee shall advise the Lessor within 15 days after the determination of the rental for such renewal term under this Section 22.2 that the Lessee has decided not to rent the Equipment for such renewal term.

(b) The "fair market rental value" shall be an amount mutually agreed upon by the Lessor and the Lessee; *provided* that if the Lessor and the Lessee are unable to agree upon the fair market rental value of the Equipment within 30 days after receipt by the Lessor of the notice of the Lessee's election to exercise any renewal option, the fair market rental value shall be determined by an appraiser selected by mutual agreement of the Lessor and the Lessee. If the Lessor and the Lessee are not able to agree upon an appraiser, or if the fair market rental value is not so determined within 60 days after receipt by the Lessor of the Lessee's election to renew, the same shall be determined by American Appraisal Company or its successor. Costs incurred in connection with any such appraisal shall be borne by the Lessee.

(c) There shall be deducted from the rental payable hereunder for any renewal term an amount equal to the portion of the fair market rental value of the Equipment which is attributable to Lessee Improvements, which resulted in an increase in the fair market rental value of the Equipment, determined as above provided, for such renewal term, as compared with the fair market rental value the Equipment would have had, for such renewal term, without such Lessee Improvements, determined as above provided.

SECTION 23. CONCERNING THE LESSOR.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Lessor, while in form purporting to be the representations, covenants, undertakings and agreements of Seattle-First National Bank, a national banking association, are nevertheless each and every one of them made and intended not as personal representations, covenants and undertakings and agreements of it in its individual corporate capacity or for the purpose or with the intention of binding it in its individual corporate capacity, but are made and intended for the purpose of binding only the Trust Estate as that term is used in the Trust Agreement (a true copy of which Trust Agreement has been delivered by the Lessor to the Lessee, initialed for identification by an Authorized Officer of the Lessor), the Trustee under such Trust Agreement is the Lessor hereunder, and this Lease is executed and delivered by Seattle-First National Bank, a national banking association, not in its own right but solely in the exercise of the powers conferred upon it as trustee under the Trust Agreement; and no liability or responsibility in its individual corporate capacity is assumed by nor shall at any time be asserted or enforceable against said Association, or any incorporator or any past, present or future subscriber to the capital stock of said Association, on account of this Lease, the Sale and Lease Back Agreement or the Participation Agreement or on account of any representation, covenant, undertaking or agreement of said Association in this Lease or the Sale and Lease Back Agreement contained, either expressed or implied, all such individual corporate liability, if any, being expressly waived and released by the Lessee herein and by all persons claiming by, through or under the Lessee; excepting, however, that the Lessee or any person claiming by, through or under it, making claim hereunder, may look to said Trust Estate for satisfaction of the same. Except as provided in Section 24.9 hereof, each representation, covenant, undertaking and agreement herein made on the part of the Lessor (including, without limitation, the Lessor's Warranty set forth in Section 5 hereof), for itself or for the Trustors,

shall be deemed to have been made by each Trustor, to the extent of its pro rata interest, as well as by the Lessor. The Lessor hereby represents to the Lessee that it has full and irrevocable power and authority to bind each Trustor in accordance with the preceding sentence.

SECTION 24. MISCELLANEOUS.

24.1 *Approvals of the Administrator.* The parties agree that before any amendment or modification (other than to the Specifications) of this Lease, or any assignment or transfer of the interest of the Lessor hereunder (other than to insurance companies, commercial savings banks and financing corporations of recognized standing organized under the laws of the United States or of any state thereof) or of the interest of the Lessee hereunder, becomes effective, the Administrator must approve the same in writing, which approval shall not be unreasonably withheld. In consideration of his guarantee of the Lessee's financial obligations under this Lease, the Administrator shall have the right to enforce this provision irrespective of any other provisions of this Lease.

24.2 *Lessor Is Owner.* This Lease shall constitute an agreement of lease, and nothing herein shall be construed as conveying to the Lessee any right, title or interest in any Unit of Equipment and Modifications thereto except as a lessee only. The Lessor and the Lessee agree that for all Federal, state and local income tax purposes the Lessor, on behalf of Trustors, will be the owner and lessor of the Equipment and that the Lessee will be the lessee. In addition, nothing contained herein shall be construed as an election by the Lessor or Trustors to treat the Lessee as having acquired any Unit of Equipment for purposes of the investment credit allowed by Section 38 of the Code, and the Lessor, the Trustors and the Lessee agree that they will not make such an election.

24.3 *Trustee's Fees.* The Lessee agrees to pay the Lessor's fees and reasonable expenses, as trustee under the Trust Agreement, for the acceptance and administration of the trust. The Lessee will reimburse the Lessor for such fees and expenses promptly upon notice from the Lessor of the amount thereof. It is agreed that the Lessor's fee for acceptance of the trust and administration shall be equal to \$4,000 in the first year of the Trust and \$1,000 annually thereafter (or a greater amount if an event of default hereunder shall occur), together with reasonable attorneys' fees for counsel for the Lessor, which fees shall not exceed \$7,500.

24.4 *Action by Lessee.* Except as otherwise specifically provided herein, any provision in this Lease that the Lessee shall take any action shall require the Lessee to do so at its sole cost and expense.

24.5 *Lessor's Right to Perform.* If the Lessee fails to make any payments required by this Lease, or to perform any of its other obligations contained herein, the Lessor may itself, but shall not be required to, make any such payments or perform any such obligations and, in making such payments, the Lessor may rely on invoices and other documents evidencing the amounts required to be paid, which are reasonably satisfactory to it. The amount of any such payment and the Lessor's reasonable costs and expenses, including (without limitation) legal fees and expenses in connection therewith and with such performance, shall thereupon be and become payable by the Lessee to the Lessor upon demand.

24.6 *Notices.* Any notice or other communication hereunder shall be in writing and, if mailed, shall be deemed to be given on the second day after it is sent by registered or certified mail, postage prepaid and addressed: (i) if to Lessee, at 955 L'Enfant Plaza North, S.W., Washington, D.C., 20024, Attention: Secretary; (ii) if to Lessor, at P.O. Box 24186, Seattle-First National Bank, Seattle, Washington 98124, Attention: Corporate Trust Department; (iii) if to any assignee of the Lessor of rights hereunder, at such address as may have been furnished in writing to the Lessor and the Lessee by such assignee, or (iv) to a party at such other address as it may, by written notice received by the other parties designate as its address for purposes of notice hereunder.

24.7 *Law Governing, Etc.* If this Lease or any provision hereof shall be deemed invalid, illegal or unenforceable in any respect or in any jurisdiction, the validity, legality and enforceability of this

Lease in other respects and other jurisdictions shall not be in any way impaired or affected thereby. Each of the parties hereto acknowledges that the other party shall not by act, delay, omission or otherwise be deemed to have waived any of its rights or remedies under this Lease unless such waiver is in writing, and such writing shall be binding only to the extent therein provided and only upon the party signing it. A waiver on any one occasion shall not be construed as a waiver on any future occasion. Without limiting the foregoing, the Lessor's rights and the Lessee's duties shall in no way be affected by the Lessor's inspection of, or failure to inspect, the Equipment or any Unit thereof. The Lessee hereby waives any right to assert that the Lessor cannot enforce this Lease (or that this Lease is invalid) because of any failure of the Lessor to qualify to do business in any jurisdiction. This Lease shall be governed by the laws of the District of Columbia and shall be binding upon and inure to the benefit of the Lessor and the Lessee and their respective successors and assigns; *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit 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.

24.8 *Section Headings.* The Table of Contents and Section headings in this Lease are for convenience of reference only and shall not be considered to be a part of this Lease.

24.9 *Lessor's Authorization.* The Lessor represents to the Lessee that the execution, delivery and performance of this Lease, the Sale and Lease Back Agreement, the Trust Agreement, the Participation Agreement and the Government Guaranty are within the corporate power of the Lessor, have been duly authorized by all necessary corporate and other action and are, and at all times will be, authorized under the Trust Agreement.

24.10 *Modification of Lease.* No variation or modification of this Lease shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

24.11 *Trustor Defined.* The term "Trustors" as used herein means Seattle-First National Bank, The Fifth Third Leasing Company and the Union Trust Company of the District Columbia; Trustors under the Trust Agreement dated as of May 1, 1975 (the "Trust Agreement"), among the Trustors and the Lessor, and their respective successors in interest and assigns under said Trust Agreement as permitted by Section 13 of the Participation Agreement.

24.12 *Execution in Counterparts.* This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument. Although this Lease is dated as of the date first set forth above, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective officers thereunto duly authorized and their corporate seals to be hereto affixed.

[CORPORATE SEAL]

Attest:

A. L. Yeckley
 Authorized Officer
 CORPORATE TRUST OFFICER
 SEATTLE-FIRST NATIONAL BANK

[CORPORATE SEAL]

Attest:

Watson Smith
 Authorized Officer

SEATTLE-FIRST NATIONAL BANK,
 a national banking association, as Trustee

By

R.M. Dagg
 Authorized Officer
 R.M. DAGG
 ASST. VICE PRESIDENT
 & TRUST OFFICER

NATIONAL RAILROAD PASSENGER CORPORATION

By

Don H. Brazier
 Authorized Officer

Guaranty by Department of Transportation

The Deputy Federal Railroad Administrator on behalf of the Secretary of the Department of Transportation of the United States of America does hereby guarantee the prompt payment of the Guaranteed Lease Obligations, pursuant to and in accordance with the Guaranty Agreement dated July 16, 1975, among the Deputy Federal Railroad Administrator of the Department of Transportation of the United States of America, as Guarantor, Seattle-First National Bank, a national banking association, as Trustee, and Federal Financing Bank.

DEPUTY FEDERAL RAILROAD ADMINISTRATOR

Attest:

Christopher S. Woffett
Counsel, FRA

By Joseph A. Hall
Deputy Federal Railroad Administrator, Guarantor

STATE OF WASHINGTON }
COUNTY OF KING } ss.

On this 28th day of June, 1975, before me personally appeared R. M. Aabo, to me personally known, who being by me duly sworn, says that he is an Authorized Officer of Seattle-First National Bank, a national banking association, that one of the seals affixed to the foregoing instrument is the corporate seal of said association, that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Ann A. Bay
Notary Public in and for the State of Washington
My Commission Expires: Sept 15, 1975

[Seal]

CITY OF WASHINGTON }
DISTRICT OF COLUMBIA } ss.

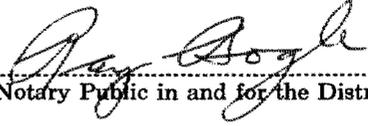
On this 8th day of ~~June~~ ^{JULY}, 1975, before me personally appeared DON R. BRAZIER, to me personally known, who being by me duly sworn, says that he is a TREASURER of NATIONAL RAILROAD PASSENGER CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Wayne R. Russell
Notary Public in and for the District of Columbia
My Commission Expires: 9-30-76

[Seal]

CITY OF WASHINGTON }
DISTRICT OF COLUMBIA } ss.

On this ^{July} 7th day of ~~June~~, 1975, before me personally appeared ASAPH H. HALL, to me personally known, who being by me duly sworn, says that he is the Deputy Federal Railroad Administrator, that the foregoing instrument was signed by him by authority duly delegated to him by the Secretary of Transportation; and he acknowledged that the execution of the foregoing instrument was his free act and deed as the Deputy Federal Railroad Administrator.


Notary Public in and for the District of Columbia

My Commission Expires: My Commission Expires April 30, 1977

[Seal]

SCHEDULE A

DESCRIPTION OF EQUIPMENT*

Type	Quantity	Manufacturer's Specifications	Place of Acceptance	R.R. nos.	Unit Price†	Total Price	Deliver
3000 hp. Diesel Electric Locomotive Model P30CH	25	Builder's Specification No. 3685, June 7, 1974 and Proposition 354D-466 dated June 7, 1974, Lessee's request for quotation X-RAD-130-01 dated 5/10/74 and Purchase Order WWJ-4171-048 dated Sept. 27, 1974 and supplements thereto.	Erie, Pennsylvania	700 through 724 (both inclusive)	\$600,468	\$15,011,700	4 Locomotives in June, 1975; 11 Locomotives in July, 1975; 10 Locomotives in August, 1975

*The term "unit of Equipment" as used in this Equipment Lease shall mean a locomotive described above, including the signal equipment installed therein.

†Exclusive of fuel and freight.

SCHEDULE B

SCHEDULE OF CASUALTY VALUE

CASUALTY VALUE: The following per cent of the Acquisition Cost (as defined in the Equipment Lease) to the Lessor of any Unit of Equipment is to be paid on a rental payment due date pursuant to Section 11 of the Equipment Lease as the result of any Unit of Equipment becoming the subject of a Casualty Occurrence, depending upon when the Casualty Value is paid. Casualty Value does not include any amounts for which the Lessor may be entitled to indemnification under Section 4.4, 6, 9, 10.2 and 24.5 of the Equipment Lease.

Before Term Lease Commencement Date Casualty Value shall equal to 101%.

<u>If Casualty Occurrence is during semiannual period ending on rent payment date</u>	<u>Casualty Value Payable Per Unit</u>	<u>If Casualty Occurrence is during semiannual period ending on rent payment date</u>	<u>Casualty Value Payable Per Unit</u>
1.....	106.5663%	16.....	66.9819%
2.....	107.1216%	17.....	64.1116%
3.....	107.3788%	18.....	61.0598%
4.....	107.2912%	19.....	58.0510%
5.....	106.9500%	20.....	54.8599%
6.....	106.2710%	21.....	51.7251%
7.....	98.9503%	22.....	48.3840%
8.....	97.7122%	23.....	45.1135%
9.....	96.2726%	24.....	41.6198%
10.....	94.5164%	25.....	38.1897%
11.....	86.1766%	26.....	34.5392%
12.....	83.9520%	27.....	30.9581%
13.....	81.5920%	28.....	27.3520%
14.....	78.9614%	29.....	23.6760%
15.....	69.8626%	30.....	20.0000%
			Thereafter—fair market value (as defined in the Lease)

SCHEDULE C

SCHEDULE OF OPTION PRICE

OPTION PRICE: The following per cent of the Acquisition Cost (as defined in the Equipment Lease) to the Lessor of any Unit of Equipment is to be paid pursuant to Section 16 of the Equipment Lease as the result of a default by Lessee thereunder or pursuant to Section 22.1(b) of the Equipment Lease as the result of Lessee's election to exercise its purchase option under Sections 3, 7 or 8 of the Equipment Lease. Option Price does not include any amounts for which the Lessor may be entitled to indemnification under Sections 4.4, 6, 9, 10.2 and 24.5 of the Equipment Lease.

<u>If Default or Lessee's Election to Exercise Its Purchase Option Is During Semiannual Period Ending on rent payment date</u>	<u>Amount Payable Per Unit</u>	<u>If Default or Lessee's Election to Exercise Its Purchase Option Is During Semiannual Period Ending on rent payment date</u>	<u>Amount Payable Per Unit</u>
1.....	106.5663%	16.....	86.2127%
2.....	107.1216%	17.....	83.3424%
3.....	107.3788%	18.....	80.2906%
4.....	107.2912%	19.....	77.2818%
5.....	106.9500%	20.....	74.0907%
6.....	106.2710%	21.....	70.9559%
7.....	105.3607%	22.....	67.6148%
8.....	104.1226%	23.....	64.3443%
9.....	102.6830%	24.....	60.8506%
10.....	100.9268%	25.....	57.4205%
11.....	98.9971%	26.....	53.7700%
12.....	96.7725%	27.....	50.1889%
13.....	94.4125%	28.....	46.5828%
14.....	91.7820%	29.....	42.9068%
15.....	89.0934%	30.....	39.2308%