

RECORDATION NO. 8088 Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

dated as of October 24, 1975

between

HARTFORD NATIONAL BANK AND TRUST COMPANY,
as Trustee under a Trust Agreement
dated as of October 24, 1975, with
Wells Fargo Transport Leasing Corporation

and

CHICAGO AND ILLINOIS WESTERN RAILROAD

LEASE OF RAILROAD EQUIPMENT dated as of October 24, 1975, between CHICAGO AND ILLINOIS WESTERN RAILROAD (hereinafter called the Lessee), and HARTFORD NATIONAL BANK AND TRUST COMPANY, acting as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with WELLS FARGO TRANSPORT LEASING CORPORATION (said bank, so acting, being hereinafter called the Lessor, and said corporation being hereinafter called the Beneficiary).

WHEREAS the Lessee has caused to be reconstructed, the units of railroad equipment described in Schedule A hereto (hereinafter called the Units);

WHEREAS the Lessor desires to purchase the Units and the Lessee agrees to sell the Units to the Lessor;

WHEREAS, the Lessee desires to lease all the Units at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the Lessor intends to grant a security interest in the Units to an investor or group of investors pursuant to a conditional sale agreement in form satisfactory to the Lessor (such security agreement being hereinafter called the Security Documentation and such investor or group of investors being hereinafter called the Vendor);

WHEREAS Illinois Central Gulf Railroad Company (hereinafter called the Guarantor) has agreed to guarantee to the Lessor and the Vendor, as provided in a guaranty agreement dated as of the date hereof (hereinafter called the Guaranty Agreement), with the Lessor, for the benefit of the Lessor and the Vendor the due and punctual payment of the sums payable by and the due and punctual performance of the obligations of, the Lessee under this Lease;

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

§ 1. Assignment of Right to Purchase. The Lessee hereby assigns, transfers and sets over unto the Lessor, its successors and assigns all the right, title and interest of the Lessee in and to the Units, except to the extent granted to the Lessee by this Lease.

The Lessee represents and warrants, for the benefit of the Lessor and the Vendor, that (i) the Lessee is the lawful owner of the Units, free from all claims, liens, security interests and encumbrances, (ii) the Lessee has the right to sell the Units, (iii) the Lessee will warrant and defend this assignment against the lawful claims and demands of all persons and (iv) that the Units have been reconstructed in accordance with the specifications previously certified to the Lessor by the chief mechanical officer of the Lessee.

§ 2. Purchase Price and Payment. The term Purchase Price shall mean the aggregate purchase price of the Units as set forth in Schedule A hereto. As applied to an individual Unit, Purchase Price shall mean the purchase price of such Unit set forth in Schedule A hereto. On the date first above mentioned, the Lessor shall pay to the Lessee in immediately available funds an amount equal to the Purchase Price of the Units, provided that there shall have been delivered to the Lessor, the following documents, in form and substance satisfactory to it, in such number of counterparts as may be reasonably requested:

(a) a bill of sale from the Lessee to the Lessor transferring to the Lessor title to the Units, warranting to the Lessor that (i) the Lessee has legal title to the Units and good and lawful right to sell such Units and that title to the Units is free of all claims, liens, security interests and other encumbrances of any nature and (ii) the Units have been reconstructed in accordance with the specifications previously certified to the Lessor by an officer of the Lessee, a copy of such specifications to be attached to such bill of sale, and covenanting to defend the title to such Units against the demands of all persons whomsoever; and

(b) an opinion of counsel for the Lessee and the Guarantor to the effect set forth in § 15 hereof.

Upon payment by the Lessor of the Purchase Price of the Units as hereinbefore provided the Units shall be

subject thereafter to all the terms and conditions of this Lease.

§ 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 180 consecutive monthly payments payable on the twenty-fourth day of each month in each year, commencing November 24, 1975, in an amount equal to 1.1054% of the Purchase Price. The foregoing sentence notwithstanding, if the Security Documentation is executed and the interest rate applicable thereto is greater than 10-1/4%, the rental payments specified in this § 3 shall be adjusted in a manner which will provide the Lessor with the same yield on the Lessor's investment in the Units as the Lessor would have realized if such interest rate had been 10-1/4%; provided, however, that no adjustment shall be made for any portion of such interest rate which exceeds 10-1/2%.

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

The Lessor irrevocably instructs the Lessee, after the Security Documentation is executed and delivered to make all the payments provided for in this Lease at the principal office of the Vendor, for the account of the Lessor, in care of the Vendor, with instructions to the Vendor first to apply such payments to satisfy the obligations of the Lessor under the Security Documentation known to the Vendor to be due and payable on the date such payments are due and payable hereunder and second, so long as no event of default under the Security Documentation shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing. Until the Security Documentation is executed and until delivered, all payments provided for in this Lease shall be made at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in immediately available funds in the city where such payment is to be made.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof

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

§ 4. Term of Lease. The term of this Lease as to the Units shall begin on the date first above mentioned and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 9 and 14 hereof) shall survive the expiration of the term of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the Security Documentation. If an event of

default should occur under this Lease or the Security Documentation, the Lessor or the Vendor may terminate this Lease (or rescind its termination), all as provided herein and therein.

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto, or in the case of any Unit not there listed such road number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the Security Documentation. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same under this Lease until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Documentation shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect set forth in subclause (viii) of § 15 hereof in respect of such statement. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

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

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor and the Vendor for collection or other charges and will be free of expense to the Lessor, the Beneficiary and the Vendor with

respect to the amount of any local, state, Federal or foreign taxes or certification, registration or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms of this Lease or the Security Documentation (all such expenses, taxes, certification, registration and license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein, and from and against which the Lessee agrees to indemnify, protect, defend, save and keep harmless on an after tax basis the Lessor, the Beneficiary and the Vendor; provided, however, that the Lessee's obligation to pay impositions shall not include (a) any Federal income tax payable by the Beneficiary in consequence of the receipt of payments provided for herein, (b) all income taxes or franchise taxes measured by net income based on such receipts imposed on the Beneficiary by the state and city in which the Beneficiary has its principal place of business, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided, and (c) to the extent that the Beneficiary receives credit therefor against its Federal income tax liability, any foreign income tax; provided, nowever, that in determining whether the Beneficiary receives credit for any foreign tax, it shall be assumed that credit is received for all other foreign taxes claimed as credits for the taxable year in question before credit is received for any foreign taxes indemnified hereunder which are claimed as credits for such year. The Lessee will also pay promptly all impositions that may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor by reason of its ownership thereof or upon the Vendor or the holders of interests in the Conditional Sale Indebtedness (as defined in the Security Documentation) by reason of the Vendor's security title thereto and any impositions upon or on account of the transactions contemplated by the Security Documentation or the instruments or agreements referred to therein or contemplated thereby, and will keep at all times all and every part of the Units free and clear of all impositions that might in any way affect the title of the Lessor in and to any Unit or its interests or rights under this Lease; provided, however,

that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor or the Vendor, adversely affect the title, interest or rights of the Lessor hereunder or of the Vendor under the Security Documentation. If any impositions shall have been charged or levied against the Lessor, the Beneficiary or the Vendor directly and paid by the Lessor, the Beneficiary or the Vendor, the Lessee shall reimburse the Lessor, the Beneficiary or the Vendor, as the case may be, promptly upon presentation of an invoice therefor. The Lessor agrees that if, in the opinion of independent tax counsel selected by the Lessor and acceptable to the Lessee (and whose fees and expenses shall be paid by the Lessee), a bona fide claim exists for a refund of all or a portion of any imposition in respect of which the Lessee has made payment to the Lessor, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by said independent counsel in order to sustain such claim. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein. The Lessee shall be entitled to the proceeds of the successful prosecution of any such claim to the extent of payments or reimbursement made by the Lessee pursuant to this § 6.

In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Vendor in such Units or notify the Lessor and the Vendor of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor and the Vendor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any imposition, pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee. The obligations of the Lessee under this § 6 constitute a rental obligation.

§ 7. Payment for Casualty Occurrences; Insurance.
In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Lessee, irrepar-

ably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in § 14 hereof or § 11 hereof, as the case may be, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such notice the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with Schedule B attached hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue. Lessor shall transfer to Lessee, without any representation or warranty of any kind, express or implied, whatever title to such unit it may have, and the term of this Lease as to such Unit shall thereupon terminate.

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

Whenever any Unit shall suffer a Casualty Occurrence after the final rental payment has been made pursuant to § 3 hereof and before such Unit shall have been returned in the manner provided in § 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 20% of the Purchase Price of such Unit.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after the date first above mentioned.

The Lessee will cause to be carried and maintained at all times during the term of this Lease physical damage and liability insurance covering the Units in the name of the Lessor and the Lessee in such amounts and in such form as is commonly maintained on comparable equipment by companies similarly situated. The Lessee currently maintains the insurance coverage described in Schedule C. Such insurance policy or policies shall provide that all losses thereunder

will be adjusted with the Lessee, the Lessor or the Vendor and will be payable to the Lessor, the Lessee and the Vendor as their respective interests shall appear, so long as the indebtedness, if any, evidenced by the Security Documentation shall not have been paid in full, and thereafter to the Lessor and the Lessee as their interests may appear.

The policies of insurance required hereunder shall be valid and enforceable policies issued by insurers of recognized responsibility comparable to the Lessee's present insurers. Originals of the policies and satisfactory evidence of the payment of premiums thereon shall be delivered by the Lessee to the Lessor except that the Lessor may accept copies of the policies and certificates of insurance in lieu of original policies. Such policies may be blanket policies covering other equipment not covered by this Lease, provided that any blanket policy shall in an accompanying certificate of insurance or rider specifically designate the Units as being included therein and covered thereby to the full extent of the amounts herein required and shall name the Lessor as an additional insured party thereunder with respect to such Units. All such policies shall contain an agreement by the insurers that such policies shall not be cancelled without at least 10 days' prior written notice to the Lessor and that the insurer will give notice to the Lessor in the event of nonpayment of premium by the Lessee when due.

Any insurance proceeds (less expenses of collection) as the result of insurance carried by the Lessee or condemnation payments received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 7, if such amounts are received by the Lessor on the date when such Casualty Value is due; provided, however, that such insurance proceeds or condemnation payments shall thereupon be paid to the Lessor or the Lessee as their interests may appear. If the Lessor shall receive any such insurance proceeds or condemnation payments after the Lessee shall have made payments pursuant to this § 7 without deduction for such amounts, such insurance proceeds or condemnation payments shall be paid to the Lessor or the Lessee, as their interests may appear. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory

to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

§ 8. Reports. On or before March 31 in each year, commencing with the calendar year 1976, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Documentation, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the Security Documentation have been preserved or replaced. The Lessor and the Beneficiary shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Beneficiary may request during the continuance of this Lease.

The Lessee will furnish the Lessor and the Vendor (i) within 60 days after the end of each of the first three quarterly fiscal periods of the Guarantor, balance sheets of the Guarantor as of the close of such periods, together with the related statements of income and retained earnings, all in reasonable detail and certified by the Comptroller of the Guarantor and (ii) within 120 days after the close of each fiscal year of the Lessee and the Guarantor, (X) the balance sheet of the Lessee as of the close of such fiscal year, together with the statements of income and retained earnings for such fiscal year, all in reasonable detail and certified, by the Treasurer of the Lessee and, (Y) the consolidated balance sheet of the Guarantor and its subsidiaries as of the close of such fiscal year, together with the consolidated statements of income and retained earnings for such fiscal year, all prepared in reasonable detail in accordance with generally accepted accounting principles and certified by a recognized national firm of independent public accountants, including accompanying notes, (iii) within 120 days after the close of each fiscal year of the Lessee and the Guarantor, a certificate of the Lessee and the Guarantor, as the case may be, signed by a principal financial officer or a vice president of each, to the effect

that the signer has reviewed the relevant terms of this Lease and the Guaranty Agreement, as the case may be, and has made, or caused to be made under his supervision, a review of the transactions and condition of the Lessee and the Guarantor, as the case may be, during the preceding fiscal year, and that such review has not disclosed the existence during such period, nor does the signer have knowledge of the existence as at the date of such certificate, of any condition or event which constitutes an Event of Default or which, after notice or lapses of time or both, would constitute an Event of Default or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action the Lessee or the Guarantor, as the case may be, has taken or is taking or proposes to take with respect thereto, (iv) promptly upon the filing of the same, the Railroad Annual Report Form R-2 and R-1 (or any form substituted therefor) of the Lessee and the Guarantor, respectively, and (v) from time to time such other information as the Lessor may reasonably request. The Lessee will furnish the Lessor from time to time on request such reasonably requested information as the Lessee or the Lessor may be required to furnish to any person pursuant to the Security Documentation.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Use; Maintenance; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE 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 shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units.

The warranty of the Lessee set forth in § 1 hereof shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Documentation.

The Lessee agrees that none of the Units will be used outside the Continental United States.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition.

Any and all additions to any Unit (except equipment or devices which have been added to such Unit by the Lessee, the cost of which is not included in the Purchase Price of such Unit, which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body and which may be readily removed from such Unit without materially damaging such Unit or the value thereof) and any and all parts installed on and additions and replace-

ments made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Documentation) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself. The Lessee shall not permit any special device or assembly to be attached or affixed to any Unit which may not be readily removed from such Unit without materially impairing such Unit or the value thereof unless such special device or assembly is to be considered an accession to such Unit.

The Lessee agrees to indemnify, protect and hold harmless the Lessor, the Beneficiary and the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of a default or an event of default under the Security Documentation or an Event of Default under this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in § 14 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the expiration or termination of the term of this Lease.

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

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

A. default shall be made in payment of any amount

provided for in §§ 3, 7 or 13 hereof, and such default shall continue for seven business days;

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

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or of the Guarantor contained in the Guaranty Agreement and such default shall continue for 25 days after written notice from the Lessor or the Vendor to the Lessee and/or the Guarantor specifying the default and demanding that the same be remedied;

D. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee or the Guarantor 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 or of the Guarantor under the Guaranty Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (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;

E. any other proceedings shall be commenced by or against the Lessee or the Guarantor for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or of the Guarantor under the Guaranty Agreement under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or of the Guarantor under the Guaranty Agreement), and, unless such proceedings

shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or of the Guarantor under the Guaranty Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or the Guarantor or for the property of the Lessee or the Guarantor in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax losses of federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such

full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Units which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 7-1/2% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Beneficiary and in respect of the receipt thereof under the laws of any Federal, state or local government or taxing authority of the United States of America or under the laws of any taxing authority or governmental subdivision of a foreign country, shall, in the reasonable opinion of the Beneficiary, cause the Beneficiary's net after-tax annual cash flow and net after-tax annual rate of return to be the same as such net after-tax annual cash flow and net after-tax annual rate of return would have been had the Beneficiary been entitled to utilization of all or such portion of the ADR Deduction (as such deduction is defined in § 17 hereof) which was lost, not claimed, not available for claim or disallowed or recaptured in respect of a Unit as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 17 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to the Lessor or the Beneficiary by the Lessee, the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default plus such sum as will pay or reimburse the Beneficiary for any interest, penalties or additions to tax incurred in connection with such loss, failure to

claim, inability to claim, disallowance or recapture.

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

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

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

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

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage for a period of 180 days or until such Units have been sold, leased or otherwise disposed of by the Lessor, whichever shall occur first; and

(c) transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which .036847% of the Purchase Price of such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under §§ 6, 7, 9, 10 and 17 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively).

So long as no Event of Default hereunder or event of default under the Security Documentation occurs, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the Security Documentation, but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them, except that the Lessee may sublease the Units to any current or future affiliate of the Lessee. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien,

charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as no Event of Default hereunder or event of default under the Security Documentation occurs, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it and to sublease the Units to any current or future affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to runthrough agreements, but only upon and subject to all the terms and conditions of this Lease and the Security Documentation; provided, however, that the Lessee shall not use or permit the use of any Unit in service involving the operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

§ 13. [Not used.]

§ 14. Return of Units upon Expiration of Term.

As soon as practicable on or after the expiration of the original or extended term of this Lease, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of the Units to the Lessor upon such storage tracks of the Lessee or an affiliate of the Lessee as the Lessor may designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store the Units on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on the lines of railroad operated by the Lessee or an affiliate of the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of the Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this § 14 shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which .036847% of the Purchase Price of such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

§ 15. Representations and Warranties; Opinion of Counsel. The Lessee represents and warrants for the benefit of the Lessor, the Beneficiary and the Vendor that:

(i) the Lessee and the Guarantor are corporations duly organized and validly existing in good standing under the laws of their states of incorporation and are duly qualified and authorized to do business wherever necessary to carry on their present businesses and operations and to own their properties and to perform their obligations under this Lease and the Guaranty Agreement, as the case may be;

(ii) the Lessee and the Guarantor have the full power, authority and legal right to enter into and perform their obligations under this Lease and the Guaranty Agreement, as the case may be, and the execution, delivery and performance of this Lease and the Guaranty Agreement, as the case may be, have been duly authorized by all necessary corporate action on the part of the Lessee and the Guarantor;

(iii) neither the Lessee nor the Guarantor is a party to any agreement or instrument or subject to any charter or other corporate restriction which will materially adversely affect its financial condition, business or operations or the ability of the Lessee or the Guarantor to perform its obligations under this Lease or the Guaranty Agreement, as the case may be;

(iv) neither the execution and delivery of this Lease or the Guaranty Agreement nor the consummation of the transaction herein or therein contemplated or the fulfillment of, or compliance with, the terms and provisions hereof and thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court or governmental instrumentality, or of the corporate charter (as amended) or the by-laws (as amended) of the Lessee or the Guarantor or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Lessee or the Guarantor is now a party or by which it may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder;

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

(vi) no authorization or approval is required from any governmental or public body with respect to the entering into or performance by the Lessee of this Lease or by the Guarantor of the Guaranty Agreement, except for the approval where such is necessary of the Illinois Commerce Commission which has been obtained;

(vii) this Lease and the Guaranty Agreement have been duly authorized, executed and delivered by the Lessee and the Guarantor, as the case may be, and, assuming due authorization, execution and delivery thereof by the other parties thereto, are legal, valid and binding agreements, enforceable in accordance with their terms; subject as to the enforcement of remedies to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally;

(viii) this Lease has been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recordation will protect the Lessor's interest in and to the Units and no filing, recording or deposit (or giving of notice) with any other Federal, state or local government or agency is necessary in order to protect the interests of the Lessor in and to the Units in the United States of America;

(ix) no adverse change has occurred in the financial condition of the Lessee since June 30, 1975; and

(x) the financial statements contained in the Railroad Annual Report Form R-1 and R-2 (or Form C and Form A, as the case may be) of the Lessee and the Guarantor, respectively, for the three fiscal years ended December 31, 1974, and the financial statements contained

in the quarterly reports on forms CBS and RE&I for the quarterly periods ended June 30, 1975, correctly set forth the financial condition of the Lessee and the Guarantor as of the dates and the results of operations thereof for the periods covered thereby and the Lessee has furnished the Lessor and the Vendor with copies of such financial statements.

(xi) the transactions contemplated by this Lease will raise no presumption of fraud as against and will be effective against all creditors of Lessee under applicable state and federal laws, including, without limitation, laws relating to fraudulent conveyances or bulk transfers.

Simultaneously with the execution and delivery of this Lease the Lessee will deliver to the Lessor counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor, in scope and substance satisfactory to the Lessor and its counsel, to the effect set forth in clauses (i), (ii), (iv), (v), (vi), (vii), (viii) and (xi) and confirming that the authorization required by clause (vi) has been duly obtained. The Lessee will also deliver to the Lessor counterparts of a certificate of the chief mechanical officer of the Lessee as to each Unit having a useful economic life of at least 20-1/2 years and an anticipated residual value at the end of 15 years of at least 20% of the Purchase Price thereof.

§ 16. Recording. The Lessee will cause this Lease and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Documentation and the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor.

... § 17. Federal Income Taxes. This Lease has been, and the Security Documentation will be, entered into on the assumptions that (A) the Beneficiary, as the beneficial owner of the Units, will be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the "Code"), to an owner of property, including, without limitation the maximum depreciation deduction with respect to the Units authorized under Section 167 of the Code for used property (hereinafter called the ADR Deduction), (a) utilizing a 12-year depreciable life, which is the lower limit listed in Revenue Procedure 72-10, 1972-1 C.B. 721, for property in Asset Guideline Class No. 00.25, in accordance with the Class Life Asset Depreciation Range System described in Section 167(m) of the Code and the Treasury Regulations promulgated thereunder as in effect on the date hereof, (b) employing initially the 150% declining-balance method of depreciation with a change, not requiring the consent of the Commissioner of Internal Revenue, to the straight line method of depreciation when most beneficial to the Lessor, (c) including in the basis of the Units the entire Purchase Price thereof and all other items properly includable under Section 1012 of the Code (hereinafter called the Basis), and (d) taking into account a salvage value, after the reduction allowed by Section 167(f) of the Code, of zero; and (B) all amounts includable in gross income by the Lessor or the Beneficiary with respect to this Lease will be treated as income from sources within the United States.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing or which would increase the amount of rentals required to be taken into income by the Lessor or the Beneficiary, and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof. The Lessee agrees to keep and make available for inspection and copying by the Lessor such records as will enable the Beneficiary to determine whether it is entitled (A) to the full benefit of the ADR Deduction with respect to the Units, and (B) to treat amounts includable in gross income with respect to this Lease as income from sources within the United States.

If (A) for any reason whatsoever (other than for

the reasons set forth below) all or any part of the ADR Deduction with respect to any Unit shall be unavailable in computing each of the items of income, gain, loss, deduction or credit of the Beneficiary, or (B) the Lessor or the Beneficiary shall not be entitled to treat all amounts includable in gross income with respect to this Lease as income from sources within the United States for any taxable year (or portion thereof) during which this Lease is in effect as the result of the location of any Unit outside the United States, then the rental applicable to such Unit set forth in § 3 shall, on the next succeeding rental payment date after written notice to the Lessee by the Lessor of such fact, be increased by such amount as shall be required, in the reasonable opinion of tax counsel for the Beneficiary to cause the Beneficiary's net after-tax annual cash flow and net after-tax rate of return to be the same as such net after-tax annual cash flow and net after-tax rate of return would have been had the ADR Deduction been wholly available and had the Lessor and the Beneficiary been entitled to treat all amounts includable in gross income with respect to this Lease as income from sources within the United States; provided, however, that such rental shall not be so increased to the extent that the ADR Deduction with respect to such Unit is unavailable as a direct result of the occurrence of any of the following events:

(i) a voluntary transfer by the Lessor of legal title to such Unit, a voluntary disposition by the Lessor of any interest in such Unit or a voluntary reduction by the Lessor of its interest in the rentals from such Unit under the Lease (except pursuant to an assignment of this Lease to the Vendor), unless, in each case, an Event of Default shall have occurred and be continuing;

(ii) the failure of the Beneficiary to claim the ADR Deduction on its income tax return for the appropriate year, unless the Beneficiary shall have received an opinion of independent tax counsel to the effect that the Beneficiary is not entitled to claim the ADR Deduction; or

(iii) the failure of the Beneficiary to have sufficient income to benefit from the ADR Deduction.

In the event a claim shall be made against the Lessor or the Beneficiary which, if successful, would result

in payment by the Lessee of increased rental pursuant to the preceding paragraph, and if, in the opinion of the Lessor's or the Lessee's tax counsel (hereinafter called Counsel), a bona fide defense to such claim exists, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such defense; provided, however, that the Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses that may be entailed therein. The Lessor may, at its option, take such action prior to making payment of any tax, interest or penalty with respect to such claim (hereinafter called a Tax Payment) or may make such Tax Payment and then sue for a refund. If the Lessor takes such action prior to making such Tax Payment, such increased rental need not be paid by the Lessee while such action is pending. In such case, if the final determination shall be adverse to the Lessor, the increased rental shall be computed by the Lessor as of the date of such final determination and the Lessee shall commence payment thereof on the rental payment date next succeeding such final determination and, on or before such rental payment date, the Lessee shall pay to the Lessor as additional rental an amount which, when reduced by any increase in the Lessor's or the Beneficiary's income tax liability or liabilities resulting from the Lessor's receipt of such additional rental, will equal the amount of all interest and penalty paid by the Lessor or the Beneficiary in respect of such final determination. If the Lessor or the Beneficiary makes such Tax Payment and then sues for a refund, such increased rental shall commence to be payable by the Lessee on the first rental payment date after such Tax Payment is made and, on or before such rental payment date, the Lessee shall pay to the Lessor as additional rental an amount which, when reduced by the increase in the Lessor's or the Beneficiary's income tax liability or liabilities resulting from the Lessor's receipt of such additional rental, will equal the amount of all interest and penalty paid by the Lessor or the Beneficiary included in such Tax Payment. In such case, if the final determination shall be in favor of the Lessor, (A) the rental payable by the Lessee to the Lessor shall be adjusted by such amount as shall be required, in the reasonable opinion of the Beneficiary, and pursuant to the assumptions set forth in the immediately preceding paragraph, to cause the Beneficiary's net after-tax annual cash flow and net after-tax rate of return to be the

same as such net after-tax annual cash flow and net after-tax rate of return would have been if such Tax Payment had not been made (or such adjustment shall be made proportionately if the final determination is partly in favor of and partly adverse to the Lessor) and such adjusted rental shall be payable by the Lessee on the rental payment date next succeeding such final determination and thereafter, and (B) the Lessor shall pay to the Lessee an amount which, when reduced by the tax benefit to the Lessor resulting from the payment of such amount, will equal the amount of any penalty or interest refunded to the Lessor as a result of such final determination and any interest on such refunded penalty and interest paid to the Lessor by the government, promptly upon receipt thereof.

In the event that the Lessee shall pay all or any portion of any instalment of rental prior to the date upon which such payment is herein required to be made, the Lessee shall pay to the Lessor an amount which, after deduction of all taxes and other charges in respect of the receipt of such amount under the laws of any federal, state or local governmental or taxing authority in the United States or under the laws of any foreign country or subdivision of any taxing authority thereof, shall be equal to the excess of (A) the taxes and other charges payable by the Lessor and the Beneficiary as a result of the receipt of such instalment of rental over (B) the taxes and other charges that would have been payable by the Lessor and the Beneficiary had such instalment of rent been paid by the Lessee on the date upon which such payment is herein required to be made.

In the event the rental rates shall be adjusted as hereinbefore provided, the Casualty Values set forth in § 7 hereof shall be adjusted accordingly.

The Lessee's and the Lessor's agreements to pay any sums which may become payable pursuant to this § 17 shall survive the expiration or other termination of this Lease.

It is understood that Lessee will claim, in respect of the Units, the investment credit allowable under Section 38 of the Code.

§ 18. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 11-1/4% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser

amount as may be legally enforceable.

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

(a) if to the Lessor, at 777 Main Street, Hartford, Connecticut 06115, attention of R. Boyd Thompson, Trust Officer (with a copy to the Beneficiary at 425 California Street, San Francisco, California 94109),

(b) if to the Lessee, to its Treasurer at 111 E. Wacker Dr., Chicago, Illinois 60601, and

(c) if to the Guarantor, to its Treasurer at 233 N. Michigan Avenue, Chicago, Illinois 60601,

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

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

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

§ 21. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Lease Assignment shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

§ 23. Immunities; No Recourse. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by Hartford National Bank and Trust Company or for the purpose or with the intention of binding said bank personally, but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by said bank solely in the exercise of the powers expressly conferred upon said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank, or the Beneficiary or on account of any representation, undertaking or agreement of the Lessor or the Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee.

§ 24. Agreements for Benefit of Beneficiary. All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 10 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Beneficiary and any of the Beneficiary's assigns under the Trust Agreement.

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

HARTFORD NATIONAL BANK AND TRUST
COMPANY, as Trustee,

by John T. Stockinger
Authorized Officer

[Corporate Seal]

Attest:

A. L. Egan
Authorized Signature

CHICAGO AND ILLINOIS WESTERN RAILROAD,

by



Vice President

[Corporate Seal]

Attest.



Assistant Secretary

STATE OF CONNECTICUT,)
) ss.:
COUNTY OF HARTFORD,)

On this *15th* day of *October* 1975, before me personally appeared *John F. Stockinger*, to me personally known, who, being by me duly sworn, says that he is an authorized officer of HARTFORD NATIONAL BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said bank, that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

Rose E. Morissette
Notary Public

[Notarial Seal]

My Commission expires

ROSE E. MORISSETTE
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1980

SCHEDULE A TO LEASE

<u>Type</u>	<u>Quantity</u>	<u>Average Unit Base Price</u>	<u>Total Base Price</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>
1,600 hp. GP-8 diesel locomotive,	11	\$272,727	\$3,000,000	7701, 7710, 7713, 7714, 7719, 7725, 7737, 7739, 7902, 7907, 7952
1,850 hp GP-10 diesel-electric locomotive,	11	\$272,727	\$3,000,000	8061, 8092, 8110, 8119, 8135, 8337, 8375, 8377, 8379, 8383, 8387
			<hr style="width: 20%; margin: 0 auto;"/> \$6,000,000*	

* Aggregate Purchase Price.

SCHEDULE B

CASUALTY VALUE

<u>From the Due Date for Rental Payment Number:</u>	<u>Until the Due Date for Rental Payment Number:</u>	<u>The Casualty Value as a Percentage of Original Cost for Each Unit of Equipment is:</u>
*	1	104.28146
1	2	104.45040
2	3	104.61222
3	4	104.76692
4	5	104.91450
5	6	105.05497
6	7	105.18831
7	8	105.31453
8	9	105.43364
9	10	105.54563
10	11	105.65049
11	12	105.74824
12	13	105.83887
13	14	105.92237
14	15	105.99876
15	16	106.06803
16	17	106.13018
17	18	106.18522
18	19	106.23313
19	20	106.27392
20	21	106.30760
21	22	106.33415
22	23	106.35359
23	24	106.36590
24	25	106.37110
25	26	106.36918
26	27	106.36014
27	28	106.34398
28	29	106.32070
29	30	106.29030
30	31	106.25278
31	32	106.20815

* From and including the date of the Lease.

<u>From the Due</u> <u>Date for</u> <u>Rental</u> <u>Payment Number:</u>	<u>Until the Due</u> <u>Date for</u> <u>Rental</u> <u>Payment Number:</u>	<u>The Casualty Value</u> <u>as a Percentage of</u> <u>Original Cost for Each</u> <u>Unit of Equipment is:</u>
32	33	106.15639
33	34	106.09752
34	35	106.03152
35	36	105.95841
36	37	105.87818
37	38	105.79082
38	39	105.69635
39	40	105.59475
40	41	105.48605
41	42	105.37022
42	43	105.24727
43	44	105.11720
44	45	104.98002
45	46	104.83571
46	47	104.58428
47	48	104.52574
48	49	104.36008
49	50	104.18729
50	51	104.00739
51	52	103.82037
52	53	103.62493
53	54	103.42497
54	55	103.21659
55	56	103.00189
56	57	102.77848
57	58	102.54874
58	59	102.31188
59	60	102.06791
60	61	101.81682
61	62	101.55860
62	63	101.29327
63	64	101.02082
64	65	100.74125
65	66	100.45156
66	67	100.16075
67	68	99.85982
68	69	99.56177
69	70	99.23660
70	71	98.91431
71	72	98.58491
72	73	98.24838
73	74	98.90474

<u>From the Due Date for Rental Payment Number:</u>	<u>Until the Due Date for Rental Payment Number:</u>	<u>The Casualty Value as a Percentage of Original Cost for Each Unit of Equipment is:</u>
74	75	97.55398
75	76	97.19609
76	77	96.83109
77	78	96.45897
78	79	96.07973
79	80	95.69337
80	81	95.29989
81	82	94.89930
82	83	94.49158
83	84	94.07674
84	85	93.65479
85	86	93.22571
86	87	92.78952
87	88	92.34621
88	89	91.89578
89	90	91.43822
90	91	90.97355
91	92	90.50176
92	93	90.02285
93	94	89.53682
94	95	89.04368
95	96	88.54341
96	97	88.03602
97	98	87.52152
98	99	86.99989
99	100	86.47115
100	101	85.94529
101	102	85.39230
102	103	84.84220
103	104	84.28498
104	105	83.72064
105	106	83.14918
106	107	82.57061
107	108	81.98491
108	109	81.39209
109	110	80.79216
110	111	80.18510
111	112	79.57093
112	113	78.94963
113	114	78.32122
114	115	77.68569
115	116	77.04304

SCHEDULE C

Insurance Coverage on Diesel Locomotives

Property

- (1) \$50,000 Deductible each and every loss Fire and/or Extended Coverage on all Property Excluding Track, Roadbed, and Fire following Collision, Derailment, Overturn of Diesels and Lightweight Equipment.
- (2) \$500,000 Deductible each and every loss To Cover Diesel Locomotives and Lightweight Equipment in the event of Collision and/or Derailment and/or Overturn including Fire following. Replacement basis for Total Loss and/or Constructive Total Loss.

Limit of Liability: \$4,000,000

Excess Public Liability

- (1) Deductible \$1,500,000 each and every loss
Covers Bodily Injury, Property Damage, and Federal Employers Liability Act (FELA)
Limits of Liability: (Freight)
\$26,500,000 Excess of \$1,500,000 Self-Insured Retention
75% of \$25,000,000 Excess of \$26,500,000
(Passenger) \$16,000,000 Excess of \$1,500,000 Self-Insured Retention

<u>From the Due</u> <u>Date for</u> <u>Rental</u> <u>Payment Number:</u>	<u>Until the Due</u> <u>Date for</u> <u>Rental</u> <u>Payment Number:</u>	<u>The Casualty Value</u> <u>as a Percentage of</u> <u>Original Cost for Each</u> <u>Unit of Equipment is:</u>
116	117	76.39327
117	118	75.73638
118	119	75.07237
119	120	74.40124
120	121	73.72299
121	122	73.03763
122	123	72.34514
123	124	71.64554
124	125	70.93881
125	126	70.22497
126	127	69.50401
127	128	68.77592
128	129	68.04072
129	130	67.29840
130	131	66.54896
131	132	65.79241
132	133	65.02873
133	134	64.25793
134	135	63.48002
135	136	62.69498
136	137	61.90283
137	138	61.10355
138	139	60.29716
139	140	59.48365
140	141	58.66301
141	142	57.83526
142	143	57.00039
143	144	56.15840
144	145	55.30930
145	146	54.45307
146	147	53.58972
147	148	52.71926
148	149	51.84167
149	150	50.96607
150	151	50.06514
151	152	49.16620
152	153	48.26014
153	154	47.34696
154	155	46.42666
155	156	45.49924
156	157	44.56478
157	158	43.62304

<u>From the Due Date for Rental Payment Number:</u>	<u>Until the Due Date for Rental Payment Number:</u>	<u>The Casualty Value as a Percentage of Original Cost for Each Unit of Equipment is:</u>
158	159	42.67426
159	160	41.71837
160	161	40.75536
161	162	39.78522
162	163	38.80795
163	164	37.82359
164	165	36.83289
165	166	35.83548
166	167	34.82775
167	168	33.81490
168	169	32.79493
169	170	31.76784
170	171	30.73364
171	172	29.69231
172	173	28.64386
173	174	27.58030
174	175	26.52561
175	176	25.45581
176	177	24.37881
177	178	23.29484
178	179	22.20388
179	180	21.10540

The Stipulated Loss Values set forth above do not take into account the loss of any investment tax credit or depreciation deductions.