

RECORDATION NO. 10559-4 Filed 1425

JUN 29 1979 - 1 22 PM

INTERSTATE COMMERCE COMMISSION CRAVATH, SWAINE & MOORE

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INTERSTATE COMMERCE COMMISSION

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No. 9-1000003

Date JUN 29 1979

Fee \$ 50.00

ICC Washington, D. C.

June 19, 1979

Peavey Company
Lease Financing Dated as of April 1, 1979
9.9% Conditional Sale Indebtedness Due October 31, 1994

[CS&M Ref.: 4876-009]

Dear Mr. Homme:

Pursuant to 49 U.S.C. § 11303(a), I enclose herewith on behalf of Peavey Company, for filing and recordation, counterparts of the following:

- (a) Lease of Railroad Equipment dated as of April 1, 1979, between Peavey Company and Chemical Bank; and
- (b) Assignment of Lease and Agreement dated as of April 1, 1979, by and between Chemical Bank and La Salle National Bank.

The addresses of the parties to the aforementioned agreements are:

Lessor-Vendee

Chemical Bank
55 Water Street
New York, N. Y. 10041

FEE OPERATION BR.
I.C.C.

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Journal

Lessee

Peavey Company
 730 Second Avenue South
 Minneapolis, Minnesota 55402

Agent-Vendor-Assignee

La Salle National Bank
 135 South LaSalle Street
 Chicago, Illinois 60690

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

125 Pullman Incorporated (Pullman Standard Division) 100-ton covered hopper cars, 4,750 c.f. cap, AAR Mechanical Designation LO, bearing identifying numbers PVGX 1075-PVGX 1199, both inclusive;

12 North American Car Corporation 100-ton covered hopper cars, 2,785 c.f. cap, AAR Mechanical Designation LO, bearing identifying numbers PVGX 508-PVGX 519, both inclusive;

8 North American Car Corporation ~~100-ton~~ covered hopper cars, 3,915 C.F. cap, AAR Mechanical Designation LO, bearing identifying numbers PVGX 500-PVGX 507, both inclusive; and

75 Pullman Incorporated (Pullman Standard Division) 100-ton covered hopper cars, 4,750 c.f. cap, AAR Mechanical Designation LO, bearing identifying numbers PVGX 1000-PVGX 1074, both inclusive.

Please cross-index the Lease of Railroad Equipment and the Assignment of Lease and Agreement with the following documents which are being filed simultaneously:

- (A) Conditional Sale Agreement No. 1 dated as of April 1, 1979, among Chemical Bank, North American Car Corporation and Pullman Incorporated (Pullman Standard Division), Recordation No. 10556 ;
- (B) Agreement and Assignment No. 1 dated as of April 1, 1979, among Pullman Incorporated (Pullman Standard Division), North American Car Corporation and La Salle National Bank, Recordation No. 10556-A,

- (C) Conditional Sale Agreement No. 2 dated as of April 1, 1979, between Chemical Bank and North American Car Corporation, Recordation No. 10557 ;
- (D) Agreement and Assignment No. 2 dated as of April 1, 1979, between North American Car Corporation and La Salle National Bank, Recordation No. 10557-A;
- (E) Conditional Sale Agreement No. 3 dated as of April 1, 1979, among Chemical Bank, Railway Marketing Corporation and Pullman Incorporated (Pullman Standard Division), Recordation No. 10558; and
- (F) Agreement and Assignment No. 3 dated as of April 1, 1979, among Pullman Incorporated (Pullman Standard Division), Railway Marketing Corporation and La Salle National Bank, Recordation No. 10558-A.

Enclosed is our check for \$80 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt addressed to the undersigned.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich,
As Agent for Peavey Company

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

Encls.

10559

RECORDATION NO. Filed 1425

JUN 29 1979 - 1 20 PM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 4876-009]

LEASE OF RAILROAD EQUIPMENT

Dated as of April 1, 1979

Between

PEAVEY COMPANY,

Lessee,

and

CHEMICAL BANK,

Lessor.

LEASE OF RAILROAD EQUIPMENT

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LEASE OF RAILROAD EQUIPMENT dated as of April 1, 1979, between PEAVEY COMPANY, a Minnesota corporation (the "Lessee"), and CHEMICAL BANK, a New York banking corporation (the "Lessor").

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 1 dated as of the date hereof ("CSA-1") with Pullman Incorporated (Pullman Standard Division) ("Pullman") and North American Car Corporation, a Delaware corporation ("NAC"), wherein Pullman has agreed to manufacture, sell and deliver to NAC, and NAC has agreed to sell and deliver to the Lessor, units of railroad equipment among those described in Appendix A hereto;

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 2 dated as of the date hereof ("CSA-2") with NAC, wherein NAC has agreed to manufacture, sell and deliver to the Lessor units of railroad equipment among those described in Appendix A hereto;

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 3 dated as of the date hereof ("CSA-3") with Pullman and Railway Marketing Corporation, a Delaware corporation ("RMC") wherein Pullman has agreed to manufacture, sell and deliver to RMC and RMC has agreed to sell and deliver to the Lessor units of railroad equipment among those described in Appendix A hereto;

WHEREAS NAC is assigning certain of its interests in CSA-1 and CSA-2, and RMC is assigning certain of its interests in CSA-3 to LA SALLE NATIONAL BANK acting as agent (the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Lessee, the Vendor, the Lessor and Bankers Life Company;

WHEREAS CSA-1, CSA-2 and CSA-3 are herein sometimes individually referred to as a "CSA" and collectively as the "CSAs" and the equipment described in Appendix A hereto is herein sometimes called the "Equipment";

WHEREAS the Lessee will agree to indemnify the Lessor pursuant to an Indemnity Agreement (the "Indemnity Agreement"), substantially in the form attached as Exhibit D to the Participation Agreement, between the Lessee and the Lessor, against certain losses, liabilities or expenses incurred or suffered by the Lessor;

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

WHEREAS the Lessor will assign this Lease as security to the Vendor pursuant to an Assignment of Lease and Agreement (the "Lease Assignment") dated as of the date hereof;

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

§ 1. NET LEASE

This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein specifically provided, the Lessee shall not be entitled to any abatement of rent or such other amounts, reduction thereof or setoff against rent or such other amounts, 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 CSAs or against Pullman, NAC, RMC 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 or the Vendor for any reason whatsoever.

§ 2. DELIVERY AND ACCEPTANCE OF UNITS

The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to each CSA. Each delivery of a Unit to the Lessor under a CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is so delivered to the Lessor. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Lessor under the applicable CSA and on behalf of itself hereunder and execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the applicable CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5.1 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 3. RENTALS

3.1. Amount and Date of Payment. (1) The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one interim rental payment on October 31, 1979, and 60 consecutive quarterly payments payable, in arrears, on January 31, April 30, July 31 and October 31, in each year, commencing January 31, 1980, to and including October 31, 1994. In respect of each Unit subject to this Lease, (a) the interim rental payment shall be in an amount equal to the

product of the Vendee Purchase Price (as defined in Paragraph 4.1 of the CSA) for each such Unit subject to this Lease multiplied by 0.02860822% for each day elapsed from and including the Closing Date (as defined in Paragraph 4.2 of the CSA) for such Unit to, but not including, October 31, 1979, and (b) the 60 quarterly rental payments shall each be in an amount equal to 2.6105% of the Vendee Purchase Price of each such Unit.

(2) In the event that there are any losses or liabilities arising out of or resulting from the Investments made pursuant to Paragraph 2 of the Participation Agreement, including, but not limited to, any Investment Deficiency in respect thereof, the rentals thereafter payable by the Lessee in respect of Units settled for concurrently with or after such losses, liabilities or deficiency arose shall be increased by such amount as shall, in the reasonable opinion of the Lessor, cause the Lessor's after-tax economic yields and cash flows, computed on the same assumptions, including tax rates, as were utilized by the Lessor in originally evaluating this transaction ("Net Economic Return") to equal the Net Economic Return that would have been realized by the Lessor if such loss or liability had not occurred.

(3) In addition to the foregoing rentals, the Lessee hereby agrees to pay to the Lessor as rent amounts equal to the amounts required by the Lessor to make the payments provided for in the last sentence of the first paragraph and in the last paragraph of Paragraph 8 of the Participation Agreement on the dates required for such payments in said Paragraph 8 (without regard to the limitation of the obligation of the Lessor set forth therein) and the Lessor agrees to apply such rentals for such purposes.

(4) Anything in the foregoing provisions of this § 3.1 to the contrary notwithstanding, it is agreed that the aggregate of the rentals payable pursuant to this § 3.1 on each rental payment date shall in no event be less than the principal and/or interest payment due on each such date pursuant to Article 4 of the CSAs.

3.2. Payments on Nonbusiness Days. If any of the rental payment dates referred to in § 3.1 is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois are authorized or obligated to remain closed.

3.3. Instructions To Pay Assignee. Upon execution and delivery of any lease assignment in writing and until the Lessee shall have been otherwise advised in writing, the Lessee shall pay all amounts so assigned in accordance with the instructions of any assignee.

3.4. Payment in Immediately Available Funds. The Lessee agrees to make each payment provided for herein as contemplated by § 3.1 in immediately available funds at or prior to 11:00 a.m. in the city where such payment is to be made.

§ 4. TERM OF LEASE

4.1. Beginning and Termination; Survival. The term of this Lease as to each Unit shall begin on the date of acceptance of such Unit under a CSA and, subject to the provisions of §§ 7, 13 and 16 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3.1 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 10, 11, 12 and 17 hereof) shall survive the expiration of the term of this Lease.

4.2. Rights and Obligations of Lessee Subject to CSAs. 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 CSAs. If an event of default should occur under any CSA, the Vendor may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease survive the termination of its term, all as provided herein; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent (as defined in the Participation Agreement) and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 15 hereof.

§ 5. IDENTIFICATION MARKS

5.1. Identifying Numbers; Legend; Changes. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto, or in

the case of any Unit not there listed such identification number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the 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 CSAs. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identification 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 CSAs 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 that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Lessor's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

5.2. Insignia of Lessee. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates, but the Lessee will not allow the name of any other person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. GENERAL TAX INDEMNIFICATION

Whether or not the transactions contemplated hereby are consummated, the Lessee assumes responsibility for and agrees to pay, and agrees to protect, save, hold harmless and indemnify on an after-tax basis the Lessor and the Vendor and their successors and assigns (the "Indemnified Persons") against, all taxes, additions to tax, assessments, fees,

withholdings and other governmental charges of any nature whatsoever, including, without limitation, penalties, fines and interest (all such taxes, assessments, fees, withholdings, governmental charges, penalties, fines and interest being hereinafter called "Taxes"), howsoever imposed, whether levied, imposed on, or otherwise incurred by or asserted by any Federal, state or local government or governmental subdivision in the United States or any foreign country or subdivision thereof, against any Indemnified Person or any Unit in whole or in part on account of, or with respect to, this Lease, the CSAs, the CSA Assignments, the Lease Assignment or any document referred to herein or therein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Units or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, transfer of title, operation, maintenance, repair, condition, sale, return, or other disposition of the Units or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall be no indemnification hereunder for any Taxes imposed on or measured solely by the net income or excess profits of the Lessor or the Vendor, other than Taxes arising out of or imposed with respect to the receipt of indemnification payments pursuant to this Lease. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this § 6 within ten days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question; provided, however, that if any Taxes are being contested in accordance with the sixth paragraph of this § 6, any payment shall be made at the time therein provided.

In the event that the Lessor shall become obligated to make any payment to Pullman, NAC, RMC or the Vendor or otherwise pursuant to any corresponding provision of any CSA not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

In the event any returns, statements or reports with respect to Taxes are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor and the Vendor in such Units.

To the extent that the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Lessor hereby authorizes the Lessee to act in the name of the Lessor 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 reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit its compliance with the requirements of taxing jurisdictions.

If any taxing authority shall assert liability for any Taxes or propose an increase in the liability of any Indemnified Person for any such Taxes (such assertion or such proposed increase being hereinafter called a "Claim"), indemnification for which would be required under this § 6, the Indemnified Person will notify the Lessee within a reasonable time of such Claim in writing. If the Lessee delivers to such Indemnified Person written notice of its desire to contest such Claim within 30 days after receipt of notice from such Indemnified Person, such Claim will be contested in accordance with this paragraph, except to the extent such Claim represents amounts payable to the Vendor under Article 6 of the CSAs. The Lessor will permit the Lessee to contest such claims under Article 6 of the CSAs in accordance with the rights of the Lessor thereunder. The Indemnified Person shall have the exclusive right to conduct the contest unless such is waived in writing, in which event the contest and all preparations therefor shall be the sole responsibility of the Lessee and, in either case, shall be conducted entirely at its expense. Such Indemnified Person will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that such Indemnified Person may in its sole discretion determine in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit for refund, and such Indemnified Person shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify such Indemnified Person in a manner satisfactory to such Indemnified Person for any liability or loss which

such Indemnified Person may incur as a result of contesting the validity of any Claim and shall have agreed to pay such Indemnified Person on demand all costs and expenses which such Indemnified Person may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to such Indemnified Person on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by any Indemnified Person of a refund of any Taxes paid by the Lessee pursuant to this paragraph, the amount of such refund and any interest paid to such Indemnified Person with respect thereto shall be paid to the Lessee forthwith upon receipt by such Indemnified Person.

The Lessee covenants and agrees to pay all amounts due under this § 6 free of any Taxes and to indemnify each Indemnified Person against any Taxes imposed by reason of any payment made by the Lessee so that the Indemnified Person to whom or for whose benefit the payment is made shall receive an amount which, net of any Taxes or other charges required to be paid by such Indemnified Person in respect thereof, shall be equal to the amount of payment otherwise required hereunder.

In the event that the Lessee becomes liable for the payment or reimbursement of any Taxes pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Taxes are paid or reimbursed by the Lessee.

The foregoing indemnities are in addition to the indemnities provided for in the Indemnity Agreement.

§ 7. PAYMENT FOR CASUALTY OCCURRENCES AND INSURANCE

7.1. Definitions of Casualty Occurrence; Payments.

In the event that any Unit of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever during the term of this Lease or any renewal term hereof or until such Unit is returned pursuant to § 14 or 17 hereof, or the purchase price of any Unit shall have been refunded by the builder of such Unit pursuant to the terms of its patent indemnity therefor or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or by any other governmental

entity resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of this Lease or during any renewal term hereof (a "Casualty Occurrence"), the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the next succeeding quarterly rental payment date (a "Casualty Payment Date"), the Lessee shall pay to the Lessor a sum equal to the Casualty Value (as defined in § 7.5 hereof) of any such Unit as of such Casualty Payment Date, plus the rental in respect of such Unit accrued as of such rental payment date; provided, however, that in the event of a Casualty Occurrence during the period any Unit is being returned pursuant to § 14 or 17 hereof, the Lessee shall make such payment to the Lessor on a date 30 days after such Casualty Occurrence. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the builder of such Unit) the Lessor shall be entitled to recover possession of such Unit.

In addition to the occurrences constituting a Casualty Occurrence under the preceding paragraph, if any Unit shall have been taken or requisitioned by the United States Government or any other governmental entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Lessor with respect thereto and pay the Lessor, as the Casualty Value therefor, an amount equal to the Casualty Value as of the end of the term of the Lease in which the Casualty Occurrence shall have taken place. Following such payment, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Value plus the Lessee's costs in such proceedings and any balance of such payments shall be the property of the Lessor. In the event such Unit shall be returned by the governmental entity, such Unit shall be returned by the Lessee to the Lessor in the manner provided in § 17 hereof. If the Lessor shall elect to retain such Unit, the Lessee shall be entitled to immediate payment of the amount of the Casualty Value paid by the Lessee plus the Lessee's costs in such proceedings less any condemnation payments received by the Lessee; and if the Lessor shall elect to sell such Unit, the Lessor shall cause such Unit to be sold, and the Lessee shall be entitled to the proceeds of such sale up to the amount of the Casualty Value paid by the Lessee plus the

Lessee's costs in such proceedings less any condemnation payments received by the Lessee.

7.2. Requisition by United States Government. In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the last paragraph of § 7.1 hereof), all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Lessor or the Lessee from the United States Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

7.3. Lessee Agent for Disposal. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof before and after expiration of the Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor (i) the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor and (ii) the Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the builder pursuant to the patent indemnity provisions of the applicable CSA an amount equal to any payment made by the builder to the Lessor in respect thereof under such CSA.

7.4. Payments After Expiration of Lease. If the date upon which the making of the payment by the Lessee in § 7.1 hereof in respect of any Unit is required as aforesaid shall be after the term of this Lease or any renewal term thereof in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term.

7.5. Amount of Casualty Value. The Casualty Value of each Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Vendee Purchase Price of such Unit as is set forth in Annex B hereto opposite the rental payment date next succeeding the actual date of such Casualty Occurrence, or if there is no such rental payment date, the last rental payment date; but in no event shall such amount be less than the Casualty Value (as defined in paragraph 7.3 of the CSAs)

as of such rental payment date.

7.6. No Release. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

7.7. Insurance To Be Maintained. (1) The Lessee will at all times prior to the return of the Units to the Lessor, at its own expense, cause to be carried and maintained public liability insurance with respect to third party personal injury and property damage and property insurance in respect of the Units at the time subject hereto. The Lessee will carry such insurance in such amounts (in the case of public liability insurance not less than \$25,000,000 for any one occurrence), for such risks, with such deductibles and with such insurance companies, satisfactory to the Lessor and the Vendor and, in any event, consistent with prudent industry practice and at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units. The proceeds of any such insurance shall be payable to the Vendor, the Lessor and the Lessee, as their respective interests may appear, so long as the indebtedness, if any, evidenced by the CSAs shall not have been paid in full, and thereafter to the Lessor, and, so long as there is no Event of Default hereunder, the Lessee as their respective interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Lessor and the Vendor, (ii) name the Lessor and the Vendor as additional named insureds as their respective interests may appear, (iii) waive any right to claim any premiums or commissions against the Lessor and the Vendor and (iv) not be a part of an umbrella policy containing any aggregate coverage limitations. In the event such policies shall contain breach of warranty provisions such policies shall provide that in respect of the interests of the Lessor and the Vendor in such policies the insurance shall not require contributions from other policies held by the Lessor or the Vendor and shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor and the Vendor, respectively) and shall insure the Lessor and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Lessor or the Vendor, respectively). At least five days prior to the first date of delivery of any Unit pursuant to any CSA,

and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant to this § 7, the Lessee shall deliver to the Lessor and the Vendor certificates issued by the insurer(s) for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of any certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the certificate upon receipt thereof.

(2) In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor for the cost thereof together with interest, on the amount of the cost to the Lessor of such insurance which the Lessee shall have failed to maintain, at the rate per annum specified in § 19 hereof.

7.8. Insurance Proceeds and Condemnation Payments. If the Lessor shall receive (directly or from the Vendor) any insurance proceeds or condemnation payments in respect of such Units suffering a Casualty Occurrence, the Lessor shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to any Unit theretofore paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor; provided, however, that no Event of Default shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Units, to the Lessor. All insurance proceeds received by the Lessor (directly or from the Vendor) 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 1980, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the total number, description and identification numbers of all Units then leased hereunder and covered by the CSAs, the total number, description and

identification 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 repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (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 § 5.1 hereof and by the CSAs have been preserved or replaced and (c) further stating that the Lessee is in compliance under the Lease and has performed or has caused to be performed the required maintenance of the Unit and that no event has occurred which with the lapse of time or notice or both would constitute an Event of Default. The Lessor and the Vendor shall each 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 Vendor may request during the continuance of this Lease.

§ 9. DISCLAIMER OF WARRANTIES

THE LESSOR DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY 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 DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR 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; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the applicable builder under the provisions of Items 3 and 4 of Annex A of the CSAs; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility

or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (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 Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Vendor based on any of the foregoing matters.

§ 10. LAWS AND RULES

10.1. Compliance. 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 United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the 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 CSAs.

10.2. Reports by Lessor. The Lessee agrees to prepare and deliver to the Lessor and the Vendor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor and the Vendor) 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. No such report shall set forth information which is inconsistent with the ownership of the Units by the Lessor or which implies that this Lease is not a true lease.

§ 11. MAINTENANCE

11.1. Units in Good Operating Order. 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, ordinary wear and tear excepted, and eligible for railroad interchange in accordance with the interchange rules of the American Association of Railroads and in the same condition as other similar Equipment owned or leased by the Lessee, which will conform to any conditions set forth in the applicable builder's warranties.

11.2. Additions and Accessions. (1) Except as set forth in §§ 10.1 and 11.1 hereof, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely affect the value of the Units). The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with § 11.2(2) hereof.

(2) Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of its agreements contained in § 11.2(1) hereof, (ii) the cost of which is included in the Vendee Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit in railroad interchange by the interchange rules of the Association of American Railroads or by the regulations

of the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be vested in the Lessor and the Vendor as their respective interests may appear in the Unit itself.

§ 12. INDEMNIFICATION

12.1. Indemnified Persons. The Lessee shall pay, and shall protect, indemnify and hold the Lessor, the Vendor and any assignee thereof, and their respective successors, assigns, agents and servants ("Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising, or alleged to arise out of this Lease, the CSAs or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent and other defects whether or not discoverable by the Lessor, the Vendor or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessor, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof, except to the extent any such violation arises from the gross negligence

or wilful misconduct of the Lessor; or (vii) any claim arising out of any of the Lessor's obligations under the Lease Assignment or the Vendor's retention of a security interest under the CSAs or the Lease Assignment or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Lessor. The Lessee shall be obligated under this § 12.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 12.1 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any indemnification payment under this § 12, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 12 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with

respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this § 12.1 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made and any costs incurred by the Lessee in defending such Indemnified Person. Nothing in this § 12.1 shall constitute a guarantee by the Lessee of the CSA Indebtedness of the Lessor under any CSA or a guarantee of the residual value of any Unit.

12.2. Indemnification of NAC, RMC and Pullman. The Lessee further agrees to indemnify, protect and hold harmless NAC, Pullman and RMC as third party beneficiaries hereof from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against NAC, Pullman or RMC because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by NAC, Pullman or RMC or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by NAC, Pullman or RMC which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to NAC, Pullman or RMC of any claim known to the Lessee from which liability may be charged against it hereunder.

12.3. Survival. The indemnities contained in this § 12 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 12 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

§ 13. DEFAULT

13.1. Events of Default; Remedies. If, during the continuance of this Lease or any extension or renewal thereof, 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 16 hereof, and such default shall continue for 10 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, in the Participation Agreement or the Indemnity Agreement and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

(D) any representation or warranty made by the Lessee herein, in the Participation Agreement or the Indemnity Agreement or in any certificate or statement furnished to the Lessor pursuant to or in connection with any such agreements proves untrue in any material respect as of the date of issuance or making thereof;

(E) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Indemnity 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; or

(F) any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder under any bankruptcy or insolvency

laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Indemnity 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 for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

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

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and 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, insofar as the Lessee may be lawfully authorized to so permit, where any of the Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, 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 as damages for loss of the bargain and not as a penalty whichever of the following amounts that the Lessor, in its sole discretion shall specify, (i) a sum, with respect to each Unit, which represents (x) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit, such present value to be computed on the basis of a 6.43% per annum discount, compounded quarterly from the respective dates upon which rental would have been payable hereunder had this Lease not been terminated over the then present value of the rental which the Lessor reasonably estimates to be obtainable for each Unit during such period, such present value to be computed on the basis of a 6.43% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (y) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of this Lease or (ii) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any unit, the Lessor, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

13.2. Remedies Not Exclusive; Waiver. 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.

13.3. Failure To Exercise Rights Is Not Waiver. 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.

13.4. Notice of Event of Default. The Lessee agrees to furnish the Lessor and the Vendor, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 13.4, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 14. RETURN OF UNITS UPON DEFAULT

14.1. Return of Units. If this Lease shall terminate pursuant to § 13 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, and shall have attached or affixed thereto any special device considered an accession thereto as provided in § 11 and shall have removed

therefrom at the Lessee's expense any addition, modification or improvement which, as provided in § 11, is owned by the Lessee or, if Lessee wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) and at the usual speed place such Units upon such storage tracks as the Lessor reasonably may designate;

(b) cause such Units to be stored on such tracks at the risk of the Lessee without charge for insurance, rent or storage until all such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) cause the same to be transported to any reasonable place 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.

14.2. Lessor Appointed Agent of Lessee. Without in any way limiting the obligation of the Lessee under the

foregoing provisions of this § 14, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in possession of such Unit at the time.

§ 15. ASSIGNMENT, POSSESSION AND USE

15.1. Assignment; Consent. This Lease shall be assignable in whole or in part by the Lessor upon prior written consent of the Vendor and the Lessee, except that without such consent the rights of the Lessor hereunder shall be assignable to any Affiliate of the Lessor but without relieving the Lessor of its obligations hereunder or to any bank, trust company or financing company having a combined capital and surplus of at least \$100,000,000 and except that the rights of the Lessor hereunder shall be assignable to any other party so long as the Lessor shall, at the time of such assignment, agree in writing in a manner reasonably satisfactory to the Vendor and the Lessee and any assignee hereof to indemnify the Vendor, the Lessee and any assignee hereof and to hold the Vendor, the Lessee and any assignee hereof harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against the Vendor, the Lessee or any assignee hereof resulting from, arising out of or in connection with such assignment. For the purpose of the § 15, "Affiliate" shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, the party in question, and "control" as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise. The Lessee hereby consents to the assignment of this Lease pursuant to the Lease Assignment.

15.2. Lessee's Rights To Use the Units, To Permit Use Thereof by Others and To Sublease the Units. (1) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and

the CSAs. Without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as provided in paragraph (2) below of this § 15.2; and the Lessee shall not, without the prior written consent of the Lessor and the Vendor, 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 paragraph (2) of this § 15.2. 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.

(2) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units by it or any 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 shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements. The Lessee may sublease the Units without the consent of the Lessor, but only upon and subject to all the terms and conditions of this Lease and the CSAs, to any financially responsible entity for a period of up to two years; provided, however, that (i) a copy of each such sublease shall be furnished to the Vendee prior to its effective date and (ii) each such sublease shall contain words to the following effect: "The rights of the sublessee under this sublease are subordinate and junior to the rights and remedies of Chemical Bank (the "Lessor") under a Lease of Railroad Equipment (the "Lease") dated as of April 1, 1979, between Peavey Company and the Lessor and to the rights of La Salle National Bank under the Conditional Sale Agreements referred to in the Lease"; provided further, however, that the Lessee shall not sublease or permit the use of any Unit predominantly outside the

United States of America within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee sublease to, or permit the use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may sublease the Units for a longer period of time with the consent of the Lessor, which consent shall not be unreasonably withheld. The Lessee may receive and retain compensation for the use of any of the Units from railroads or other entities so using such Units.

15.3 Transfers by Lessee Through Merger, Acquisition or Consolidation. Nothing in this § 15 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation 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.

§ 16. RENEWAL OPTION

16.1. Renewal Option. The parties hereto contemplate that at the end of the original term of this Lease, the Lessor will hold the Units for re-lease. Prior to the delivery of any Unit pursuant to § 2 hereof, the Lessor will enter into an agreement (the "Option Agreement") with Tiger Financial Services, Inc. ("TFS"), pursuant to which the Lessor will grant to TFS the option to lease all but not less than all of the Units then subject to this Lease for one five-year term commencing at the end of the original term of this Lease on such terms as are set forth in the Option Agreement. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, if TFS shall fail to exercise its option to lease the Units at the end of the original term of this Lease, the Lessee may, by written notice delivered to the Lessor not less than 180 days nor more than 270 days prior to the end of the original term of this Lease, elect to extend such original term of this Lease in respect of all but not less than all the Units then covered by this Lease for a period of five years or such other time acceptable to both the Lessee and Lessor commencing on the scheduled expiration of such original term of this

Lease, at a "Fair Market Rental" payable, in arrears, in quarterly payments on the month and day such rentals were payable for the Units in each year of such extended term. In the event of any such renewal, the Casualty Value payable in respect of a Casualty Occurrence involving any unit shall be as set forth in Schedule B hereto.

16.2. Determination of Fair Market Rental.

(1) Fair Market Rental shall be determined for the extended term of this Lease on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental.

(2) If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings

shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

§ 17. RETURN OF UNITS UPON EXPIRATION OF TERM

As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit, and in any event not later than 30 days thereafter, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks as the Lessor may reasonably designate (such storage tracks to be located in one of the following states: Illinois, Iowa, Minnesota, Montana, Nebraska, North Dakota or South Dakota), or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months from the date of delivery of the last such unit and transport the same upon disposition of the Units, at any time within such three-month period, to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such 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 § 17 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) meet the standards then in effect for railroad interchange under the interchange rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction and (iii) have attached thereto as provided in § 11 hereof and have removed therefrom any such device not so considered an accession or, if Lessee

wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor. During any such storage period the Lessee shall maintain the Units in such manner as the Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances. 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. If any Unit is not so delivered in the condition required to be delivered under this § 17 within 30 days after the expiration of this Lease or any renewal hereof, the Lessee shall pay to the Lessor for each day thereafter until such Unit is so delivered an additional amount equal to the higher of the daily interchange rate for that interchange or 0.02860822% of the Vendee Purchase Price of such Unit per day.

§ 18. RECORDING

The Lessee, at its own expense, will cause this Lease, the CSAs, the CSA Assignments and the Lease Assignment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. The Lessee will undertake the filing, registering, deposit and recording required of the Lessor under the CSAs. The Lessee in addition 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 CSAs, the CSA Assignments and the Lease Assignment; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease, the CSAs, the CSA Assignments and the Lease Assignment shall be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 prior to the delivery and acceptance hereunder of any Unit.

§ 19. 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 interest at the higher of 10.9% per annum or 2% above the prime rate of Chemical Bank from time to time in effect on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 20. LESSOR'S RIGHT TO PERFORM FOR THE LESSEE

If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the higher of 10.9% per annum or 2% above the prime rate of Chemical Bank from time to time in effect shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor or any assignee of the Lessor against the Lessee hereunder.

§ 21. 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 Suite 1822, 55 Water Street, New York, New York 10041, Attention of Manager, Specialized Leasing, with a copy to Benjamin D. Fein, Esq., Messrs. Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, N. Y. 10022;

(b) if to the Lessee, at 730 Second Avenue South, Minneapolis, Minnesota 55402, Attention of Legal Department,

or addressed to either party at such other address as such

party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at 135 South La Salle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department.

§ 22. SEVERABILITY

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.

§ 23. EFFECT AND MODIFICATION OF LEASE

Except for the Participation Agreement, the Indemnity Agreement and the Consent, 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.

§ 24. THIRD PARTY BENEFICIARIES

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Vendor, any builder and the permitted successors and assigns of a party) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

§ 25. 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 dupli-

cates 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.

§ 26. LAW GOVERNING

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

§ 27. IMMUNITIES; NO RECOURSE

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

§ 28. AGREEMENTS FOR BENEFIT OF LESSOR'S ASSIGNS

All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 12, 13, 14 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns including the Vendor.

§ 29. TERM LESSOR

Whenever the term Lessor is used in this Lease it shall apply and refer to the Lessor and any assignee of the Lessor including, so long as any CSA Indebtedness under the CSAs or interest thereon shall remain unpaid or any other obligation thereunder be continuing, the Vendor.

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

PEAVEY COMPANY,

by

[Handwritten Signature]

[Corporate Seal]

Attest:

[Handwritten Signature]
Assistant Secretary

CHEMICAL BANK,

by

Vice President

[Seal]

Attest:

Authorized Officer

APPENDIX A TO LEASE

Type	AAR Mechanical Designation	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Estimated Unit Base Price	Estimated Total Base Price	Estimated Time and Place of Delivery
100 Ton Covered Hopper Cars 4750 c.f. cap	LO	1027 2/15/79	Butler, Pennsylvania	125	PVEX 1075-1199	\$42,948.50	\$5,368,562.50	September-October 1979 at Butler, Pennsylvania
100 Ton Covered Hopper Cars 2785 c.f. cap	LO	3000 Model PD	Chicago Ridge, Illinois	12	PVEX 508-519	51,741	620,892	June 1979 at La Crosse, Wisconsin
100 Ton Covered Hopper Cars 3915 c.f. cap	LO	4000 Model PD	Chicago Ridge, Illinois	8	PVEX 500-507	56,041	448,328	June 1979 at La Crosse, Wisconsin
100 Ton Covered Hopper Cars 4750 c.f. cap	LO	1027 2/15/79	Butler, Pennsylvania	75	PVEX 1000-1074	42,948.50	3,221,137.50	June-July 1979 at Butler, Pennsylvania
							<u>\$9,658,920.00</u>	

APPENDIX B TO LEASE

Casualty Values

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price*</u>
10/79	108.3149
1/80	107.8939
4/80	108.3129
7/80	108.5779
10/80	108.7339
1/81	108.8399
4/81	108.8909
7/81	108.9779
10/81	108.5429
1/82	108.2209
4/82	107.8459
7/82	107.4049
10/82	106.9079
1/83	106.3339
4/83	105.7079
7/83	105.0169
10/83	104.2669
1/84	103.4459
4/84	102.5749
7/84	101.6469
10/84	100.6669
1/85	99.6209
4/85	98.5279
7/85	97.3869
10/85	96.2009
1/86	94.9549
4/86	93.6629
7/86	92.3359
10/86	90.9699
1/87	89.5509
4/87	88.0899
7/87	86.6039
10/87	85.0879
1/88	83.5259
4/88	81.9249
7/88	80.3089

* As defined in Paragraph 4.1 of the CSAs.

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price*</u>
10/88	78.6689
1/89	76.9899
4/89	75.2789
7/89	73.5469
10/89	71.8029
1/90	70.0219
4/90	68.2029
7/90	66.3859
10/90	64.5529
1/91	62.6889
4/91	60.7859
7/91	58.8939
10/91	56.9869
1/92	55.0559
4/92	53.0859
7/92	51.1339
10/92	49.1739
1/93	47.1929
4/93	45.1739
7/93	43.1679
10/93	41.1519
1/94	39.1159
4/94	37.0479
7/94	34.9929
10/94	32.1509
1/95	32.4639
4/95	32.0159
7/95	31.5889
10/95	31.1789
1/96	30.7989
4/96	30.4059
7/96	29.9489
10/96	29.4419
1/97	28.9259
4/97	28.3939
7/97	27.8589
10/97	27.3159
1/98	26.7629
4/98	26.1919
7/98	25.6189
10/98	26.0369
1/99	24.4439
4/99	23.8329
7/99	23.7119
10/99	23.5909

* As defined in Paragraph 4.1 of the CSAs.

[CS&M Ref. 4876-009]

LEASE OF RAILROAD EQUIPMENT

Dated as of April 1, 1979

Between

PEAVEY COMPANY,

Lessee,

and

CHEMICAL BANK,

Lessor.

LEASE OF RAILROAD EQUIPMENT

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LEASE OF RAILROAD EQUIPMENT dated as of April 1, 1979, between PEAVEY COMPANY, a Minnesota corporation (the "Lessee"), and CHEMICAL BANK, a New York banking corporation (the "Lessor").

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 1 dated as of the date hereof ("CSA-1") with Pullman Incorporated (Pullman Standard Division) ("Pullman") and North American Car Corporation, a Delaware corporation ("NAC"), wherein Pullman has agreed to manufacture, sell and deliver to NAC, and NAC has agreed to sell and deliver to the Lessor, units of railroad equipment among those described in Appendix A hereto;

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 2 dated as of the date hereof ("CSA-2") with NAC, wherein NAC has agreed to manufacture, sell and deliver to the Lessor units of railroad equipment among those described in Appendix A hereto;

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 3 dated as of the date hereof ("CSA-3") with Pullman and Railway Marketing Corporation, a Delaware corporation ("RMC") wherein Pullman has agreed to manufacture, sell and deliver to RMC and RMC has agreed to sell and deliver to the Lessor units of railroad equipment among those described in Appendix A hereto;

WHEREAS NAC is assigning certain of its interests in CSA-1 and CSA-2, and RMC is assigning certain of its interests in CSA-3 to LA SALLE NATIONAL BANK acting as agent (the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Lessee, the Vendor, the Lessor and Bankers Life Company;

WHEREAS CSA-1, CSA-2 and CSA-3 are herein sometimes individually referred to as a "CSA" and collectively as the "CSAs" and the equipment described in Appendix A hereto is herein sometimes called the "Equipment";

WHEREAS the Lessee will agree to indemnify the Lessor pursuant to an Indemnity Agreement (the "Indemnity Agreement"), substantially in the form attached as Exhibit D to the Participation Agreement, between the Lessee and the Lessor, against certain losses, liabilities or expenses incurred or suffered by the Lessor;

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

WHEREAS the Lessor will assign this Lease as security to the Vendor pursuant to an Assignment of Lease and Agreement (the "Lease Assignment") dated as of the date hereof;

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

§ 1. NET LEASE

This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein specifically provided, the Lessee shall not be entitled to any abatement of rent or such other amounts, reduction thereof or setoff against rent or such other amounts, 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 CSAs or against Pullman, NAC, RMC 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 or the Vendor for any reason whatsoever.

§ 2. DELIVERY AND ACCEPTANCE OF UNITS

The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to each CSA. Each delivery of a Unit to the Lessor under a CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is so delivered to the Lessor. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Lessor under the applicable CSA and on behalf of itself hereunder and execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the applicable CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5.1 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 3. RENTALS

3.1. Amount and Date of Payment. (1) The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one interim rental payment on October 31, 1979, and 60 consecutive quarterly payments payable, in arrears, on January 31, April 30, July 31 and October 31, in each year, commencing January 31, 1980, to and including October 31, 1994. In respect of each Unit subject to this Lease, (a) the interim rental payment shall be in an amount equal to the

product of the Vendee Purchase Price (as defined in Paragraph 4.1 of the CSA) for each such Unit subject to this Lease multiplied by 0.02860822% for each day elapsed from and including the Closing Date (as defined in Paragraph 4.2 of the CSA) for such Unit to, but not including, October 31, 1979, and (b) the 60 quarterly rental payments shall each be in an amount equal to 2.6105% of the Vendee Purchase Price of each such Unit.

(2) In the event that there are any losses or liabilities arising out of or resulting from the Investments made pursuant to Paragraph 2 of the Participation Agreement, including, but not limited to, any Investment Deficiency in respect thereof, the rentals thereafter payable by the Lessee in respect of Units settled for concurrently with or after such losses, liabilities or deficiency arose shall be increased by such amount as shall, in the reasonable opinion of the Lessor, cause the Lessor's after-tax economic yields and cash flows, computed on the same assumptions, including tax rates, as were utilized by the Lessor in originally evaluating this transaction ("Net Economic Return") to equal the Net Economic Return that would have been realized by the Lessor if such loss or liability had not occurred.

(3) In addition to the foregoing rentals, the Lessee hereby agrees to pay to the Lessor as rent amounts equal to the amounts required by the Lessor to make the payments provided for in the last sentence of the first paragraph and in the last paragraph of Paragraph 8 of the Participation Agreement on the dates required for such payments in said Paragraph 8 (without regard to the limitation of the obligation of the Lessor set forth therein) and the Lessor agrees to apply such rentals for such purposes.

(4) Anything in the foregoing provisions of this § 3.1 to the contrary notwithstanding, it is agreed that the aggregate of the rentals payable pursuant to this § 3.1 on each rental payment date shall in no event be less than the principal and/or interest payment due on each such date pursuant to Article 4 of the CSAs.

3.2. Payments on Nonbusiness Days. If any of the rental payment dates referred to in § 3.1 is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois are authorized or obligated to remain closed.

3.3. Instructions To Pay Assignee. Upon execution and delivery of any lease assignment in writing and until the Lessee shall have been otherwise advised in writing, the Lessee shall pay all amounts so assigned in accordance with the instructions of any assignee.

3.4. Payment in Immediately Available Funds. The Lessee agrees to make each payment provided for herein as contemplated by § 3.1 in immediately available funds at or prior to 11:00 a.m. in the city where such payment is to be made.

§ 4. TERM OF LEASE

4.1. Beginning and Termination; Survival. The term of this Lease as to each Unit shall begin on the date of acceptance of such Unit under a CSA and, subject to the provisions of §§ 7, 13 and 16 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3.1 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 10, 11, 12 and 17 hereof) shall survive the expiration of the term of this Lease.

4.2. Rights and Obligations of Lessee Subject to CSAs. 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 CSAs. If an event of default should occur under any CSA, the Vendor may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease survive the termination of its term, all as provided herein; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent (as defined in the Participation Agreement) and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 15 hereof.

§ 5. IDENTIFICATION MARKS

5.1. Identifying Numbers; Legend; Changes. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto, or in

the case of any Unit not there listed such identification number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the 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 CSAs. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identification 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 CSAs 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 that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Lessor's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

5.2. Insignia of Lessee. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates, but the Lessee will not allow the name of any other person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. GENERAL TAX INDEMNIFICATION

Whether or not the transactions contemplated hereby are consummated, the Lessee assumes responsibility for and agrees to pay, and agrees to protect, save, hold harmless and indemnify on an after-tax basis the Lessor and the Vendor and their successors and assigns (the "Indemnified Persons") against, all taxes, additions to tax, assessments, fees,

withholdings and other governmental charges of any nature whatsoever, including, without limitation, penalties, fines and interest (all such taxes, assessments, fees, withholdings, governmental charges, penalties, fines and interest being hereinafter called "Taxes"), howsoever imposed, whether levied, imposed on, or otherwise incurred by or asserted by any Federal, state or local government or governmental subdivision in the United States or any foreign country or subdivision thereof, against any Indemnified Person or any Unit in whole or in part on account of, or with respect to, this Lease, the CSAs, the CSA Assignments, the Lease Assignment or any document referred to herein or therein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Units or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, transfer of title, operation, maintenance, repair, condition, sale, return, or other disposition of the Units or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall be no indemnification hereunder for any Taxes imposed on or measured solely by the net income or excess profits of the Lessor or the Vendor, other than Taxes arising out of or imposed with respect to the receipt of indemnification payments pursuant to this Lease. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this § 6 within ten days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question; provided, however, that if any Taxes are being contested in accordance with the sixth paragraph of this § 6, any payment shall be made at the time therein provided.

In the event that the Lessor shall become obligated to make any payment to Pullman, NAC, RMC or the Vendor or otherwise pursuant to any corresponding provision of any CSA not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

In the event any returns, statements or reports with respect to Taxes are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor and the Vendor in such Units.

To the extent that the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Lessor hereby authorizes the Lessee to act in the name of the Lessor 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 reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit its compliance with the requirements of taxing jurisdictions.

If any taxing authority shall assert liability for any Taxes or propose an increase in the liability of any Indemnified Person for any such Taxes (such assertion or such proposed increase being hereinafter called a "Claim"), indemnification for which would be required under this § 6, the Indemnified Person will notify the Lessee within a reasonable time of such Claim in writing. If the Lessee delivers to such Indemnified Person written notice of its desire to contest such Claim within 30 days after receipt of notice from such Indemnified Person, such Claim will be contested in accordance with this paragraph, except to the extent such Claim represents amounts payable to the Vendor under Article 6 of the CSAs. The Lessor will permit the Lessee to contest such claims under Article 6 of the CSAs in accordance with the rights of the Lessor thereunder. The Indemnified Person shall have the exclusive right to conduct the contest unless such is waived in writing, in which event the contest and all preparations therefor shall be the sole responsibility of the Lessee and, in either case, shall be conducted entirely at its expense. Such Indemnified Person will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that such Indemnified Person may in its sole discretion determine in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit for refund, and such Indemnified Person shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify such Indemnified Person in a manner satisfactory to such Indemnified Person for any liability or loss which

such Indemnified Person may incur as a result of contesting the validity of any Claim and shall have agreed to pay such Indemnified Person on demand all costs and expenses which such Indemnified Person may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to such Indemnified Person on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by any Indemnified Person of a refund of any Taxes paid by the Lessee pursuant to this paragraph, the amount of such refund and any interest paid to such Indemnified Person with respect thereto shall be paid to the Lessee forthwith upon receipt by such Indemnified Person.

The Lessee covenants and agrees to pay all amounts due under this § 6 free of any Taxes and to indemnify each Indemnified Person against any Taxes imposed by reason of any payment made by the Lessee so that the Indemnified Person to whom or for whose benefit the payment is made shall receive an amount which, net of any Taxes or other charges required to be paid by such Indemnified Person in respect thereof, shall be equal to the amount of payment otherwise required hereunder.

In the event that the Lessee becomes liable for the payment or reimbursement of any Taxes pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Taxes are paid or reimbursed by the Lessee.

The foregoing indemnities are in addition to the indemnities provided for in the Indemnity Agreement.

§ 7. PAYMENT FOR CASUALTY OCCURRENCES AND INSURANCE

7.1. Definitions of Casualty Occurrence; Payments.

In the event that any Unit of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever during the term of this Lease or any renewal term hereof or until such Unit is returned pursuant to § 14 or 17 hereof, or the purchase price of any Unit shall have been refunded by the builder of such Unit pursuant to the terms of its patent indemnity therefor or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or by any other governmental

entity resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of this Lease or during any renewal term hereof (a "Casualty Occurrence"), the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the next succeeding quarterly rental payment date (a "Casualty Payment Date"), the Lessee shall pay to the Lessor a sum equal to the Casualty Value (as defined in § 7.5 hereof) of any such Unit as of such Casualty Payment Date, plus the rental in respect of such Unit accrued as of such rental payment date; provided, however, that in the event of a Casualty Occurrence during the period any Unit is being returned pursuant to § 14 or 17 hereof, the Lessee shall make such payment to the Lessor on a date 30 days after such Casualty Occurrence. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the builder of such Unit) the Lessor shall be entitled to recover possession of such Unit.

In addition to the occurrences constituting a Casualty Occurrence under the preceding paragraph, if any Unit shall have been taken or requisitioned by the United States Government or any other governmental entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Lessor with respect thereto and pay the Lessor, as the Casualty Value therefor, an amount equal to the Casualty Value as of the end of the term of the Lease in which the Casualty Occurrence shall have taken place. Following such payment, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Value plus the Lessee's costs in such proceedings and any balance of such payments shall be the property of the Lessor. In the event such Unit shall be returned by the governmental entity, such Unit shall be returned by the Lessee to the Lessor in the manner provided in § 17 hereof. If the Lessor shall elect to retain such Unit, the Lessee shall be entitled to immediate payment of the amount of the Casualty Value paid by the Lessee plus the Lessee's costs in such proceedings less any condemnation payments received by the Lessee; and if the Lessor shall elect to sell such Unit, the Lessor shall cause such Unit to be sold, and the Lessee shall be entitled to the proceeds of such sale up to the amount of the Casualty Value paid by the Lessee plus the

Lessee's costs in such proceedings less any condemnation payments received by the Lessee.

7.2. Requisition by United States Government. In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the last paragraph of § 7.1 hereof), all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Lessor or the Lessee from the United States Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

7.3. Lessee Agent for Disposal. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof before and after expiration of the Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor (i) the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor and (ii) the Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the builder pursuant to the patent indemnity provisions of the applicable CSA an amount equal to any payment made by the builder to the Lessor in respect thereof under such CSA.

7.4. Payments After Expiration of Lease. If the date upon which the making of the payment by the Lessee in § 7.1 hereof in respect of any Unit is required as aforesaid shall be after the term of this Lease or any renewal term thereof in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term.

7.5. Amount of Casualty Value. The Casualty Value of each Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Vendee Purchase Price of such Unit as is set forth in Annex B hereto opposite the rental payment date next succeeding the actual date of such Casualty Occurrence, or if there is no such rental payment date, the last rental payment date; but in no event shall such amount be less than the Casualty Value (as defined in paragraph 7.3 of the CSAs)

as of such rental payment date.

7.6. No Release. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

7.7. Insurance To Be Maintained. (1) The Lessee will at all times prior to the return of the Units to the Lessor, at its own expense, cause to be carried and maintained public liability insurance with respect to third party personal injury and property damage and property insurance in respect of the Units at the time subject hereto. The Lessee will carry such insurance in such amounts (in the case of public liability insurance not less than \$25,000,000 for any one occurrence), for such risks, with such deductibles and with such insurance companies, satisfactory to the Lessor and the Vendor and, in any event, consistent with prudent industry practice and at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units. The proceeds of any such insurance shall be payable to the Vendor, the Lessor and the Lessee, as their respective interests may appear, so long as the indebtedness, if any, evidenced by the CSAs shall not have been paid in full, and thereafter to the Lessor, and, so long as there is no Event of Default hereunder, the Lessee as their respective interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Lessor and the Vendor, (ii) name the Lessor and the Vendor as additional named insureds as their respective interests may appear, (iii) waive any right to claim any premiums or commissions against the Lessor and the Vendor and (iv) not be a part of an umbrella policy containing any aggregate coverage limitations. In the event such policies shall contain breach of warranty provisions such policies shall provide that in respect of the interests of the Lessor and the Vendor in such policies the insurance shall not require contributions from other policies held by the Lessor or the Vendor and shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor and the Vendor, respectively) and shall insure the Lessor and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Lessor or the Vendor, respectively). At least five days prior to the first date of delivery of any Unit pursuant to any CSA,

and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant to this § 7, the Lessee shall deliver to the Lessor and the Vendor certificates issued by the insurer(s) for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of any certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the certificate upon receipt thereof.

(2) In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor for the cost thereof together with interest, on the amount of the cost to the Lessor of such insurance which the Lessee shall have failed to maintain, at the rate per annum specified in § 19 hereof.

7.8. Insurance Proceeds and Condemnation Payments.

If the Lessor shall receive (directly or from the Vendor) any insurance proceeds or condemnation payments in respect of such Units suffering a Casualty Occurrence, the Lessor shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to any Unit theretofore paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor; provided, however, that no Event of Default shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Units, to the Lessor. All insurance proceeds received by the Lessor (directly or from the Vendor) 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 1980, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the total number, description and identification numbers of all Units then leased hereunder and covered by the CSAs, the total number, description and

identification 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 repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (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 § 5.1 hereof and by the CSAs have been preserved or replaced and (c) further stating that the Lessee is in compliance under the Lease and has performed or has caused to be performed the required maintenance of the Unit and that no event has occurred which with the lapse of time or notice or both would constitute an Event of Default. The Lessor and the Vendor shall each 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 Vendor may request during the continuance of this Lease.

§ 9. DISCLAIMER OF WARRANTIES

THE LESSOR DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY 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 DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR 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; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the applicable builder under the provisions of Items 3 and 4 of Annex A of the CSAs; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility

or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (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 Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Vendor based on any of the foregoing matters.

§ 10. LAWS AND RULES

10.1. Compliance. 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 United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the 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 CSAs.

10.2. Reports by Lessor. The Lessee agrees to prepare and deliver to the Lessor and the Vendor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor and the Vendor) 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. No such report shall set forth information which is inconsistent with the ownership of the Units by the Lessor or which implies that this Lease is not a true lease.

§ 11. MAINTENANCE

11.1. Units in Good Operating Order. 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, ordinary wear and tear excepted, and eligible for railroad interchange in accordance with the interchange rules of the American Association of Railroads and in the same condition as other similar Equipment owned or leased by the Lessee, which will conform to any conditions set forth in the applicable builder's warranties.

11.2. Additions and Accessions. (1) Except as set forth in §§ 10.1 and 11.1 hereof, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely affect the value of the Units). The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with § 11.2(2) hereof.

(2) Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of its agreements contained in § 11.2(1) hereof, (ii) the cost of which is included in the Vendee Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit in railroad interchange by the interchange rules of the Association of American Railroads or by the regulations

of the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be vested in the Lessor and the Vendor as their respective interests may appear in the Unit itself.

§ 12. INDEMNIFICATION

12.1. Indemnified Persons. The Lessee shall pay, and shall protect, indemnify and hold the Lessor, the Vendor and any assignee thereof, and their respective successors, assigns, agents and servants ("Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising, or alleged to arise out of this Lease, the CSAs or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent and other defects whether or not discoverable by the Lessor, the Vendor or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessor, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof, except to the extent any such violation arises from the gross negligence

or wilful misconduct of the Lessor; or (vii) any claim arising out of any of the Lessor's obligations under the Lease Assignment or the Vendor's retention of a security interest under the CSAs or the Lease Assignment or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Lessor. The Lessee shall be obligated under this § 12.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 12.1 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any indemnification payment under this § 12, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 12 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with

respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this § 12.1 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made and any costs incurred by the Lessee in defending such Indemnified Person. Nothing in this § 12.1 shall constitute a guarantee by the Lessee of the CSA Indebtedness of the Lessor under any CSA or a guarantee of the residual value of any Unit.

12.2. Indemnification of NAC, RMC and Pullman. The Lessee further agrees to indemnify, protect and hold harmless NAC, Pullman and RMC as third party beneficiaries hereof from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against NAC, Pullman or RMC because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by NAC, Pullman or RMC or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by NAC, Pullman or RMC which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to NAC, Pullman or RMC of any claim known to the Lessee from which liability may be charged against it hereunder.

12.3. Survival. The indemnities contained in this § 12 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 12 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

§ 13. DEFAULT

13.1. Events of Default; Remedies. If, during the continuance of this Lease or any extension or renewal thereof, 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 16 hereof, and such default shall continue for 10 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, in the Participation Agreement or the Indemnity Agreement and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

(D) any representation or warranty made by the Lessee herein, in the Participation Agreement or the Indemnity Agreement or in any certificate or statement furnished to the Lessor pursuant to or in connection with any such agreements proves untrue in any material respect as of the date of issuance or making thereof;

(E) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Indemnity 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; or

(F) any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder under any bankruptcy or insolvency

laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Indemnity 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 for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

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

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and 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, insofar as the Lessee may be lawfully authorized to so permit, where any of the Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, 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 as damages for loss of the bargain and not as a penalty whichever of the following amounts that the Lessor, in its sole discretion shall specify, (i) a sum, with respect to each Unit, which represents (x) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit, such present value to be computed on the basis of a 6.43% per annum discount, compounded quarterly from the respective dates upon which rental would have been payable hereunder had this Lease not been terminated over the then present value of the rental which the Lessor reasonably estimates to be obtainable for each Unit during such period, such present value to be computed on the basis of a 6.43% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (y) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of this Lease or (ii) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any unit, the Lessor, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

13.2. Remedies Not Exclusive; Waiver. 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.

13.3. Failure To Exercise Rights Is Not Waiver. 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.

13.4. Notice of Event of Default. The Lessee agrees to furnish the Lessor and the Vendor, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 13.4, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 14. RETURN OF UNITS UPON DEFAULT

14.1. Return of Units. If this Lease shall terminate pursuant to § 13 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, and shall have attached or affixed thereto any special device considered an accession thereto as provided in § 11 and shall have removed

therefrom at the Lessee's expense any addition, modification or improvement which, as provided in § 11, is owned by the Lessee or, if Lessee wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) and at the usual speed place such Units upon such storage tracks as the Lessor reasonably may designate;

(b) cause such Units to be stored on such tracks at the risk of the Lessee without charge for insurance, rent or storage until all such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) cause the same to be transported to any reasonable place 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.

14.2. Lessor Appointed Agent of Lessee. Without in any way limiting the obligation of the Lessee under the

foregoing provisions of this § 14, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in possession of such Unit at the time.

§ 15. ASSIGNMENT, POSSESSION AND USE

15.1. Assignment; Consent. This Lease shall be assignable in whole or in part by the Lessor upon prior written consent of the Vendor and the Lessee, except that without such consent the rights of the Lessor hereunder shall be assignable to any Affiliate of the Lessor but without relieving the Lessor of its obligations hereunder or to any bank, trust company or financing company having a combined capital and surplus of at least \$100,000,000 and except that the rights of the Lessor hereunder shall be assignable to any other party so long as the Lessor shall, at the time of such assignment, agree in writing in a manner reasonably satisfactory to the Vendor and the Lessee and any assignee hereof to indemnify the Vendor, the Lessee and any assignee hereof and to hold the Vendor, the Lessee and any assignee hereof harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against the Vendor, the Lessee or any assignee hereof resulting from, arising out of or in connection with such assignment. For the purpose of the § 15, "Affiliate" shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, the party in question, and "control" as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise. The Lessee hereby consents to the assignment of this Lease pursuant to the Lease Assignment.

15.2. Lessee's Rights To Use the Units, To Permit Use Thereof by Others and To Sublease the Units. (1) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and

the CSAs. Without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as provided in paragraph (2) below of this § 15.2; and the Lessee shall not, without the prior written consent of the Lessor and the Vendor, 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 paragraph (2) of this § 15.2. 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.

(2) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units by it or any 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 shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements. The Lessee may sublease the Units without the consent of the Lessor, but only upon and subject to all the terms and conditions of this Lease and the CSAs, to any financially responsible entity for a period of up to two years; provided, however, that (i) a copy of each such sublease shall be furnished to the Vendee prior to its effective date and (ii) each such sublease shall contain words to the following effect: "The rights of the sublessee under this sublease are subordinate and junior to the rights and remedies of Chemical Bank (the "Lessor") under a Lease of Railroad Equipment (the "Lease") dated as of April 1, 1979, between Peavey Company and the Lessor and to the rights of La Salle National Bank under the Conditional Sale Agreements referred to in the Lease"; provided further, however, that the Lessee shall not sublease or permit the use of any Unit predominantly outside the

United States of America within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee sublease to, or permit the use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may sublease the Units for a longer period of time with the consent of the Lessor, which consent shall not be unreasonably withheld. The Lessee may receive and retain compensation for the use of any of the Units from railroads or other entities so using such Units.

15.3 Transfers by Lessee Through Merger, Acquisition or Consolidation. Nothing in this § 15 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation 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.

§ 16. RENEWAL OPTION

16.1. Renewal Option. The parties hereto contemplate that at the end of the original term of this Lease, the Lessor will hold the Units for re-lease. Prior to the delivery of any Unit pursuant to § 2 hereof, the Lessor will enter into an agreement (the "Option Agreement") with Tiger Financial Services, Inc. ("TFS"), pursuant to which the Lessor will grant to TFS the option to lease all but not less than all of the Units then subject to this Lease for one five-year term commencing at the end of the original term of this Lease on such terms as are set forth in the Option Agreement. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, if TFS shall fail to exercise its option to lease the Units at the end of the original term of this Lease, the Lessee may, by written notice delivered to the Lessor not less than 180 days nor more than 270 days prior to the end of the original term of this Lease, elect to extend such original term of this Lease in respect of all but not less than all the Units then covered by this Lease for a period of five years or such other time acceptable to both the Lessee and Lessor commencing on the scheduled expiration of such original term of this

Lease, at a "Fair Market Rental" payable, in arrears, in quarterly payments on the month and day such rentals were payable for the Units in each year of such extended term. In the event of any such renewal, the Casualty Value payable in respect of a Casualty Occurrence involving any unit shall be as set forth in Schedule B hereto.

16.2. Determination of Fair Market Rental.

(1) Fair Market Rental shall be determined for the extended term of this Lease on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental.

(2) If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings

shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

§ 17. RETURN OF UNITS UPON EXPIRATION OF TERM

As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit, and in any event not later than 30 days thereafter, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks as the Lessor may reasonably designate (such storage tracks to be located in one of the following states: Illinois, Iowa, Minnesota, Montana, Nebraska, North Dakota or South Dakota), or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months from the date of delivery of the last such unit and transport the same upon disposition of the Units, at any time within such three-month period, to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such 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 § 17 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) meet the standards then in effect for railroad interchange under the interchange rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction and (iii) have attached or affixed thereto any special device considered an accession thereto as provided in § 11 hereof and have removed therefrom any such device not so considered an accession or, if Lessee

wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor. During any such storage period the Lessee shall maintain the Units in such manner as the Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances. 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. If any Unit is not so delivered in the condition required to be delivered under this § 17 within 30 days after the expiration of this Lease or any renewal hereof, the Lessee shall pay to the Lessor for each day thereafter until such Unit is so delivered an additional amount equal to the higher of the daily interchange rate for that interchange or 0.02860822% of the Vendee Purchase Price of such Unit per day.

§ 18. RECORDING

The Lessee, at its own expense, will cause this Lease, the CSAs, the CSA Assignments and the Lease Assignment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. The Lessee will undertake the filing, registering, deposit and recording required of the Lessor under the CSAs. The Lessee in addition 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 CSAs, the CSA Assignments and the Lease Assignment; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease, the CSAs, the CSA Assignments and the Lease Assignment shall be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 prior to the delivery and acceptance hereunder of any Unit.

§ 19. 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 interest at the higher of 10.9% per annum or 2% above the prime rate of Chemical Bank from time to time in effect on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 20. LESSOR'S RIGHT TO PERFORM FOR THE LESSEE

If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the higher of 10.9% per annum or 2% above the prime rate of Chemical Bank from time to time in effect shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor or any assignee of the Lessor against the Lessee hereunder.

§ 21. 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 Suite 1822, 55 Water Street, New York, New York 10041, Attention of Manager, Specialized Leasing, with a copy to Benjamin D. Fein, Esq., Messrs. Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, N. Y. 10022;

(b) if to the Lessee, at 730 Second Avenue South, Minneapolis, Minnesota 55402, Attention of Legal Department,

or addressed to either party at such other address as such

party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at 135 South La Salle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department.

§ 22. SEVERABILITY

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.

§ 23. EFFECT AND MODIFICATION OF LEASE

Except for the Participation Agreement, the Indemnity Agreement and the Consent, 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.

§ 24. THIRD PARTY BENEFICIARIES

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Vendor, any builder and the permitted successors and assigns of a party) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

§ 25. 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 dupli-

cates 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.

§ 26. LAW GOVERNING

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

§ 27. IMMUNITIES; NO RECOURSE

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

§ 28. AGREEMENTS FOR BENEFIT OF LESSOR'S ASSIGNS

All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 12, 13, 14 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns including the Vendor.

§ 29. TERM LESSOR

Whenever the term Lessor is used in this Lease it shall apply and refer to the Lessor and any assignee of the Lessor including, so long as any CSA Indebtedness under the CSAs or interest thereon shall remain unpaid or any other obligation thereunder be continuing, the Vendor.

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

PEAVEY COMPANY,

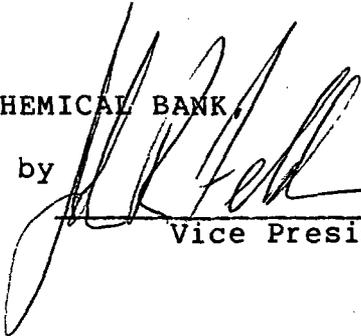
by _____

[Corporate Seal]

Attest:

Assistant Secretary

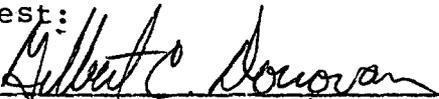
CHEMICAL BANK,

by  _____

Vice President

[Seal]

Attest:



Authorized Officer

APPENDIX A TO LEASE

Type	AAR Mechanical Designation	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Estimated Unit Base Price	Estimated Total Base Price	Estimated Time and Place of Delivery
100 Ton Covered Hopper Cars 4750 c.f. cap	IO	1027 2/15/79	Butler, Pennsylvania	125	FVGX 1075-1199	\$42,948.50	\$5,368,562.50	September-October 1979 at Butler, Pennsylvania
100 Ton Covered Hopper Cars 2785 c.f. cap	IO	3000 Model PD	Chicago Ridge, Illinois	12	FVGX 508-519	51,741	620,892	June 1979 at La Crosse, Wisconsin
100 Ton Covered Hopper Cars 3915 c.f. cap	IO	4000 Model PD	Chicago Ridge, Illinois	8	FVGX 500-507	56,041	448,328	June 1979 at La Crosse, Wisconsin
100 Ton Covered Hopper Cars 4750 c.f. cap	IO	1027 2/15/79	Butler, Pennsylvania	75	FVGX 1000-1074	42,948.50	3,221,137.50	June-July 1979 at Butler, Pennsylvania
							<u>\$9,658,920.00</u>	

APPENDIX B TO LEASE

Casualty Values

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price*</u>
10/79	108.3149
1/80	107.8939
4/80	108.3129
7/80	108.5779
10/80	108.7339
1/81	108.8399
4/81	108.8909
7/81	108.9779
10/81	108.5429
1/82	108.2209
4/82	107.8459
7/82	107.4049
10/82	106.9079
1/83	106.3339
4/83	105.7079
7/83	105.0169
10/83	104.2669
1/84	103.4459
4/84	102.5749
7/84	101.6469
10/84	100.6669
1/85	99.6209
4/85	98.5279
7/85	97.3869
10/85	96.2009
1/86	94.9549
4/86	93.6629
7/86	92.3359
10/86	90.9699
1/87	89.5509
4/87	88.0899
7/87	86.6039
10/87	85.0879
1/88	83.5259
4/88	81.9249
7/88	80.3089

* As defined in Paragraph 4.1 of the CSAs.

Casualty Payment DatesPercentage of
Vendee Purchase Price*

10/88	78.6689
1/89	76.9899
4/89	75.2789
7/89	73.5469
10/89	71.8029
1/90	70.0219
4/90	68.2029
7/90	66.3859
10/90	64.5529
1/91	62.6889
4/91	60.7859
7/91	58.8939
10/91	56.9869
1/92	55.0559
4/92	53.0859
7/92	51.1339
10/92	49.1739
1/93	47.1929
4/93	45.1739
7/93	43.1679
10/93	41.1519
1/94	39.1159
4/94	37.0479
7/94	34.9929
10/94	32.1509
1/95	32.4639
4/95	32.0159
7/95	31.5889
10/95	31.1789
1/96	30.7989
4/96	30.4059
7/96	29.9489
10/96	29.4419
1/97	28.9259
4/97	28.3939
7/97	27.8589
10/97	27.3159
1/98	26.7629
4/98	26.1919
7/98	25.6189
10/98	26.0369
1/99	24.4439
4/99	23.8329
7/99	23.7119
10/99	23.5909

* As defined in Paragraph 4.1 of the CSAs.