
LEASE OF RAILROAD EQUIPMENT

RECORDATION NO. 7723-B Filed & Recorded

NOV 21 1974 - 2 35 PM

Dated as of November 15, 1974

INTERSTATE COMMERCE COMMISSION

among

ANDREW L. LEWIS, JR.

and

JOSEPH L. CASTLE

Trustees of the Property of

Reading Company, Debtor,

FIRST PENNSYLVANIA BANK N.A.,

as Trustee

and

FIRST PENNSYLVANIA BANK N.A.,

as Trustee

Covering 30 Diesel Electric Locomotives

Filed and recorded with the Interstate Commerce Commission pursuant to
Section 20c of the Interstate Commerce Act on _____ at _____
, recordation number _____

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LEASE OF RAILROAD EQUIPMENT dated as of November 15, 1974, between Andrew L. Lewis, Jr. and Joseph L. Castle, Trustees of the property of Reading Company, Debtor, (hereinafter called the "Debtor" and such Trustees together with their successors and assigns being hereinafter called the "Trustees" or collectively called the "Lessee"), and FIRST PENNSYLVANIA BANK N.A., as trustee under a trust agreement dated as of the date hereof with THE PHILADELPHIA NATIONAL BANK and FIRST PENNSYLVANIA BANK N.A., as trustee under a trust agreement dated as of the date hereof with FIDELITY UNION TRUST COMPANY (each such trustee being hereinafter individually called a "Lessor" and such trustees collectively being called the "Lessors", each such trust agreement being hereinafter individually called a "Trust Agreement" and such Trust Agreements collectively being called the "Trust Agreements" and THE PHILADELPHIA NATIONAL BANK and FIDELITY UNION TRUST COMPANY being hereinafter individually called a "Trustor" or collectively called the "Trustors").

WHEREAS, on the 23rd day of November, 1971, the Debtor filed a petition for reorganization under Section 77 of the Bankruptcy Act in the United States District Court for the Eastern District of Pennsylvania and such petition was duly approved as properly filed by order entered on said date by said Court (the proceedings with respect thereto being hereinafter called the "Reorganization Proceedings"), and Andrew L. Lewis, Jr. and Joseph L. Castle were duly qualified as trustees of the property of the Debtor on January 24, 1972 and May 7, 1974 respectively;

WHEREAS, the Lessors have entered into a conditional sale agreement dated as of the date hereof (hereinafter called the "Conditional Sale Agreement") with General Motors Corporation (hereinafter called the "Builder"), wherein the Builder has agreed to construct, sell and deliver to the Lessors, as co-owners, the railroad equipment described in Schedule A hereto, a copy of which agreement has been delivered to the Lessee;

WHEREAS, the Builder has assigned or will assign its interest in the Conditional Sale Agreement to GIRARD TRUST BANK as agent (hereinafter, together with its successors and assigns, referred to as the "Agent") pursuant to an agreement and assignment (hereinafter called the "Assignment") dated as of the date hereof, between the Builder and the Agent, a copy of which has been delivered to the Lessors and the Lessee; and

WHEREAS, the Lessee desires to lease all the units of said equipment, or such lesser number as are delivered and accepted by it on or before December 31, 1974 (hereinafter being called individually a "Unit" and collectively the "Units"), at the rentals and for the terms and upon the conditions hereinafter provided;

Now, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessors hereby lease the Units to the Lessee upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Vendor under the Conditional Sale Agreement:

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§ 1. *Financing.* This Lease provides for the lease by the Lessee from the Lessors of Units delivered to the Lessors prior to December 31, 1974, such Units to be financed pursuant to a finance agreement among the Agent and Great American Insurance Company, New England Mutual Life Insurance Company and Security Mutual Life Insurance Company of New York (hereinafter called the "Investors") dated as of the date hereof.

§ 2. *Delivery and Acceptance of Units.* The Lessors will cause each Unit to be delivered to the Lessee at the Builder's EMD Plant, La Grange, Illinois. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessors a certificate of acceptance and delivery (hereinafter called a "Certificate of Delivery"), stating that such Unit has been inspected and accepted on behalf of the Lessee on the date of such Certificate of Delivery and is marked in accordance with §5 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.* The Lessee agrees to pay to the Lessors as rental for each Unit subject to this Lease (i) a payment on January 1, 1975 in an amount equal to 2.8697% of the Purchase Price (as defined in the Conditional Sale Agreement and hereinafter called the "Purchase Price") of each Unit settled for under the Conditional Sale Agreement plus an amount equal to .027096% of the Purchase Price of each Unit settled for under the Conditional Sale Agreement for each day elapsed from and including the Closing Date (as said term is defined in the Conditional Sale Agreement) with respect to such Unit to and including December 31, 1974, and (ii) 59 consecutive quarterly payments payable January 1, April 1, July 1, October 1 in each year commencing April 1, 1975, in an amount equal to 2.8697% of the Purchase Price of each Unit subject to the Lease on each such date.

All payments provided for in this Lease shall be made for the account of the Lessors, in care of the Agent, at Broad and Chestnut Sts., Philadelphia, Pa. 19101 in immediately available funds in Philadelphia.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessors under this Lease, provided that nothing herein shall be deemed to impair the Lessee's right to assert and sue upon such claims in separate actions; nor, except as otherwise expressly provided herein, shall this Lease terminate or the respective obligations of the Lessors 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, bankruptcy, reorganization

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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 Lessors for any reason whatsoever.

The obligations to make rental and other payments under this Lease will constitute expenses of administration of the Lessee and will rank equally and ratably in priority of payment with all other expenses of administration of the Lessee, except the obligations of the Lessee under that certain Refinancing Agreement between it and the United States of America dated as of October 1, 1973 with respect to 57 diesel locomotives and except trustees' certificates heretofore or hereafter issued by the Lessee.

§ 4. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on December 31, 1989.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Units, upon default by the Lessee hereunder, are subject to the rights of the Vendor under the Conditional Sale Agreement. If any event of default should occur under the Conditional Sale Agreement, the Agent may terminate this Lease (or rescind its termination), all as provided therein, unless the Lessee is not in default under this Lease.

§ 5. *Identification Marks.* The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying 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 both sides of each Unit, in letters not less than one inch in height, the following: "First Pennsylvania Bank N.A., as Trustees—Owner/Lessor: Girard Trust Bank—Security Owner," or other appropriate words designated by the Lessors, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessors' title to and property interest in such Units, the Agent's Security Title (as defined in The Conditional Sale Agreement) to such Unit and the rights of the Lessor under this Lease and of the Agent under the Conditional Sale Agreement. 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

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on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Agent and the Lessors and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Conditional Sale Agreement shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Lessee may allow the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§ 6. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessors for collection or other charges and will be free of expense to the Lessors with respect to the amount of any local, state, federal, or foreign taxes (other than any United States federal income tax payable by the Lessors in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which the Lessors have their respective principal places of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "Impositions") hereinafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Conditional Sale Agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon either of the Lessors solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all Impositions which might in any way affect the title of the Lessors or result in a lien upon any such Unit; *provided, however*, that the Lessee shall be under no obligation to pay any Imposition of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Imposition and the nonpayment thereof does not, in the opinion of either of the Lessors, adversely affect the title, property or rights of such Lessor hereunder or under the Conditional Sale Agreement. If any Imposition shall have been charged or levied against such Lessor directly and paid by such Lessor, the Lessee shall reimburse such Lessor on presentation of an invoice therefor.

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In the event that the Lessors shall become obligated to make any payment to the Builder or the Agent or otherwise pursuant to Article 6 of the Conditional Sale Agreement not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Impositions hereunder) to the Lessors as will enable the Lessors to fulfill completely their obligations pursuant to said Article 6.

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

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

§ 7. *Payment for Casualty Occurrences.* In the event that any Unit shall be or become lost, stolen, destroyed, or, in the opinion of the Lessors or the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called "Casualty Occurrences") during the term of this Lease, the Lessee shall promptly and fully notify the Lessors and the Agent with respect thereto. On the rental payment date next succeeding such notice, the Lessee shall pay to the Lessors with respect to such Unit the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and the Lessee shall be vested with title to such Unit.

The Casualty Value of each Unit as of any quarterly rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the following schedule opposite the number of such rental payment date.

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
1	103.593	15	97.444
2	103.771	16	96.687
3	104.313	17	95.850
4	104.204	18	95.284
5	104.008	19	94.642
6	104.236	20	93.631
7	104.386	21	89.392
8	104.164	22	87.241
9	103.862	23	86.354
10	103.816	24	85.100
11	103.694	25	83.767
12	103.201	26	82.721
13	100.448	27	81.602
14	97.830	28	80.116

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<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
29	76.159	45	51.192
30	72.800	46	50.602
31	71.463	47	46.319
32	70.821	48	43.836
33	70.495	49	41.322
34	70.217	50	40.605
35	69.001	51	35.906
36	68.220	52	33.147
37	67.415	53	30.353
38	67.042	54	29.497
39	63.793	55	24.889
40	61.944	56	22.535
41	60.068	57	20.102
42	59.592	58	17.816
43	55.687	59	15.449
44	53.454	60	12.997
		Thereafter	10.000

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 after delivery to and acceptance thereof by the Lessee hereunder.

The Lessee hereby assigns any and all rights to receive payment in settlement for destruction of any Unit by another carrier (hereinafter called the "Settlement") to the Lessors. The Lessors hereby direct the Lessee to collect and receive such Settlement in trust for and for the benefit of the Lessors, and, to the extent such Settlement does not exceed the payments due to the Lessors in respect of a Casualty Occurrence of such Unit or Units for which the Settlement is made, to pay such Settlement over to the Lessors. The Lessors agree to apply such Settlement, to the extent received, towards the satisfaction of Lessee's obligation to make payment to the Lessors in respect of a Casualty Occurrence of the Unit or Units for which Settlement is made, and the Lessee shall be entitled to any excess of such Settlement over such obligation. In the event that the Lessors receive any insurance proceeds or condemnation award by reason of a Casualty Occurrence, they will credit such proceeds or award to the Lessee as a payment on account of the Casualty Value of the Units which are the subject of such Casualty Occurrence or, to the extent that the proceeds or award exceed said Casualty Value to be paid by the Lessee, will remit same to the Lessee.

§ 8. *Annual Reports.* On or before March 31 in each year, commencing March 31, 1976, the Lessee will furnish to each of the Lessors and the Agent an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Conditional Sale Agreement, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such statement) and such other information regarding the

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condition and state of repair of the Units as either of the Lessors or the Agent may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and Article 9 of the Conditional Sale Agreement have been preserved or replaced. The Lessors and the Agent shall have the right, by their agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessors or the Agent may request during the continuance of this Lease.

§ 9. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification.* **The Lessors make no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessors make no warranty of merchantability or fitness of the Units for any particular purpose or as to title to the Units or any component thereof, it being agreed that all such risks, as between the Lessors and the Lessee, are to be borne by the Lessee; but the Lessors hereby irrevocably appoint and constitute the Lessee their 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 account of the Lessors and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessors may have under the provisions of Article 13 of the Conditional Sale Agreement. The Lessee's delivery of a Certificate of Delivery shall be conclusive evidence as between the Lessee and the Lessors that all 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 Lessors based on any of the foregoing matters.**

The Lessee agrees, for the benefit of the Lessors and the Agent, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration of any Unit, or in the event that any equipment or appliance on any such Unit shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on any such Unit in order to comply with such laws or rules, the Lessee will make such alterations, changes, replacements and additions at its own expense; *provided, however*, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Agent, adversely affect the property or rights of the Lessors or the Agent under this Lease or under the Conditional Sale Agreement.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in good order and repair.

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Any and all additions to any Unit (except communications, signal and automatic control equipment or devices having a similar use which have been added to such Unit by the Lessee, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body), and any and all parts installed on and additions and replacements made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Conditional Sale Agreement) shall immediately be vested in the Lessors and the Agent as their respective interests appear in the Unit itself.

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

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

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

A. default shall be made in payment of any part of the rental provided in § 3 hereof and such default shall continue for ten days;

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

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

D. a decree or order is entered in the Reorganization Proceedings preventing or disabling the Trustees from performing any of their obligations under this Agreement; or

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E. if the obligations of the Trustees hereunder are assumed by a corporation or by the Debtor's successor pursuant to a plan of reorganization for the Debtor approved in the Reorganization Proceedings or by an assignee under Section 12 hereof, as provided herein (such corporation, successor or assignee, being hereinafter called the "Successor") and either:

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

(ii) Any proceedings shall be commenced by or against the Successor for any relief which includes, or might result in, modification of the assumed obligations of the Successor under this Lease under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions, 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 Successor under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Successor or for the property of the Successor 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 (whether or not such appointment is subject to confirmation or ratification), if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then, in any such case, the Lessors, at their 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 hereinafter provided; and thereupon the Lessors may by their agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all

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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 Lessors 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 90, and also to recover forthwith from the Lessee (i) that percentage of the Purchase Price of the Equipment (as defined in the Conditional Sale Agreement) as set forth on Schedule I hereto opposite the last quarterly period with respect to which the lease rental was paid by Lessee under this Lease, plus any interest which has accrued pursuant to the provisions of Article 16 of the Conditional Sale Agreement subsequent to the Declaration of Default as defined in the Conditional Sale Agreement, said total to be reduced by the total net proceeds, if any, paid to Vendor and Vendees as defined in the Conditional Sale Agreement following any sale of the Equipment under the Conditional Sale Agreement or, if there is no sale, the fair market value of the Equipment on the date of the Declaration of Default (as defined in the Conditional Sale Agreement) said fair market value to be determined by agreement of the parties, including any assignee of this Lease, or, in the event agreement cannot be reached, in the same manner as set forth in § 13 hereof; provided, however, that in the event that sale of the Equipment is prevented by the order of a court of competent jurisdiction or by any other governmental action, no reduction in the amount owing shall be made until such time as the Vendor as defined in the Conditional Sale Agreement receives any "income or proceeds of the Equipment" as that term is defined in the Conditional Sale Agreement; plus (ii) any damages, expenses, including reasonable attorney's fees, in addition thereto which the Lessors shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental.

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

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

§11. *Return of Units Upon Default.* If this Lease shall terminate pursuant to § 10 hereof, the Lessors may take, or cause to be taken or demand from the Lessee, immediate possession of Equipment, or one or more of the Units thereof, and may remove the same from possession and

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use of the Lessee. For such purpose, the Lessors may enter upon the premises of the Lessee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids, including but not limited to diesel fuel or other necessary petroleum products, and any available trackage and other facilities or means of the Lessee, with or without process of law.

In case the Lessors shall demand possession of the Equipment pursuant to this paragraph and shall designate a reasonable point or points on the lines or premises of the Lessee for the delivery of Equipment to the Lessors, the Lessee shall at its own cost, expense and risk, forthwith and in usual manner, cause the Equipment to be moved to such point or points on its lines and shall there deliver the Equipment or cause it to be delivered to the Lessors. At the option of the Lessors, the Lessors may keep the Equipment on any of the lines or premises of the Lessee until the Lessors shall have leased, sold or otherwise disposed of the same, and for such purpose, the Lessee agrees to furnish, without charge or rent or storage, the necessary facilities at any point or points selected by the Lessors reasonably convenient to the Lessee. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Unit, to inspect the same. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessors as 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 Lessors to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time. This Agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and upon application to any court of equity having jurisdiction in the premises, the Lessors shall be entitled to a decree against the Lessee requiring specific performance hereof.

The Lessee hereby expressly waives any and all claims against the Lessors and its assigns or agents for damages of whatever nature in connection with the retaking of any Unit of the Equipment in any reasonable manner.

§ 12. *Assignment; Prohibition Against Liens; Possession and Use.* This Lease shall be assignable in whole or in part by the Lessors without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessors except upon written notice of such assignment from the Lessors. All the rights of the Lessors hereunder, except the provisions of § 17 hereof and the rights to enforce said provisions under the remedies provided in § 10 hereof, shall inure to the benefit of the Lessors' assigns. Whenever the terms Lessor or Lessors are used in this Lease they shall include the assignees of the Lessors.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessors, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as hereinafter pro-

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vided in this § 12. 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 resulting from claims against either of the Lessors or the Agent not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessors, the Agent or the Lessee therein, and will promptly discharge any such lien, claim, security interest or encumbrance which arises; *provided, however*, that the Lessee shall be under no obligation to pay any Impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the opinion of the Lessors adversely affect the title, property or rights of the Lessors hereunder or under the Conditional Sale Agreement. If any Impositions shall have been charged or levied against the Lessors directly and paid by the Lessors, the Lessee shall reimburse the Lessors on presentation of an invoice therefor. The Lessee shall not, without the prior written consent of the Lessors, 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 this Section 12. The accrual of any of the Lessee's rights in the leasehold interest under this Lease to the Manufacturers Hanover Trust Company as successor to the Central Union Trust Company as Mortgagee under a Mortgage and Deed of Trust dated January 2, 1924 between the Debtor and the said mortgagee, as amended and supplemented, shall not constitute a violation of the provisions of this paragraph.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it, the Debtor or any affiliate upon lines of railroad owned or operated by it or the Debtor 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 the Debtor or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or in the transportation thereof from the place of delivery to the Lessee but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement; *provided, however*, that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

The rights of Lessee under this Lease may not be assigned by the Lessee, except that, with the prior written consent of the Lessors and the Agent (which consent shall not be unreasonably withheld), the Lessee may assign all of its rights under this Lease to a third party of reliable standing with the financial community which shall have duly assumed Lessee's obligations hereunder. The obligations of the Lessee hereunder shall terminate upon the assignment of the Lessee's rights and obligations pursuant to this paragraph except as to obligations and claims arising prior to such assignments.

Nothing in this Section 12 shall be deemed to restrict the right of the

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Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any railroad or federal corporation (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Debtor shall have become merged or consolidated or which shall have acquired or leased all or substantially all of the lines of railroad of the Debtor.

The Reorganization Proceedings shall not be dismissed or terminated nor shall the property of the Debtor be surrendered by the Trustees or their successor or successors, unless, (a) as a condition of such dismissal or termination or such surrender, all of the obligations then existing or to accrue of the Trustees under this Lease shall be assumed as a general obligation by the Debtor's successor pursuant to a plan of reorganization approved in the Reorganization Proceedings or by any other railroad corporation acquiring all or substantially all of the lines of railroad of the Debtor or as an obligation, having the same status and priorities as those of the Trustees under this Lease, by any receiver or receivers in equity, or trustee or trustees, that shall succeed the Trustees, or (b) payment in full in cash (or provision therefor satisfactory to the Lessors) is made to the Lessors of the Casualty Value of the Equipment and all damages, claims, or any other moneys payable to or in favor of the Lessors pursuant to this Lease, together with interest thereon as herein provided to the date of payment thereof.

In case of any sale or conveyance of all or substantially all of the lines of railroad of the Debtor, the purchaser, or transferee of the purchaser, shall not be at liberty to refuse to accept performance of this Lease or to disaffirm it and any such purchaser and any such transferee shall assume and agree to perform each and all of the obligations of the Trustees hereunder, unless provision is made for the payment to the Lessors as provided above in clause (b) of the next preceding paragraph.

The provisions of this Section 12 shall not be construed to limit or prevent any action required to be taken by the Lessee under the Regional Rail Reorganization Act of 1973.

Whenever used in this Lease, the term "Trustees" shall be deemed to mean any corporation (including the Debtor), receiver or receivers in equity, trustee or trustees, purchaser or transferee of any purchaser which shall have assumed and agreed to perform each and all of the obligations and covenants of the Trustees hereunder.

§ 13. *Purchase and Renewal Options.* Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessors not less than six months prior to the end of the term of this Lease or any extended term hereof, as the case may be, elect (a) to extend the term of this Lease in respect of all, but not fewer than all, of such Units then covered by this Lease, for one or two additional five-year periods commencing on the scheduled expiration of the original term or extended term of this Lease, as the case may be, at a rental payable in 20 quarterly payments, each in an amount equal to the Fair Market Rental as hereinafter defined; such quarterly payments to be made on January 1, April 1, July 1 and October 1 in each year of the applicable extended term or (b) to purchase all, but not fewer than all, the Units covered by this Lease for a purchase price equal to the Fair Market Value as hereinafter defined of such Units as

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of the end of such term.

Fair Market Value or Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user or lessee, as the case may be (other than (i) a lessee currently in possession and (ii) a used equipment dealer), and an informed and willing seller or lessor, as the case may be, under no compulsion to sell or lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or before four months prior to the expiration of the term of this Lease or any extended term, the Lessors and the Lessee are unable to agree upon a determination of the Fair Market Value or Fair Market Rental, as the case may be, of the Units, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessors and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessors, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessors and the Lessee. The determination so made shall be conclusively binding upon both the Lessors and the Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

In the event the Lessee elects to purchase the Equipment, upon payment of the purchase price, the Lessors shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under either of the Lessors) for such Units, and such other documents as may be required to release such Units from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

§ 14. *Return of Units upon Expiration of Term.* As soon as practicable on or after the expiration of the term of this Lease with respect to any Unit, the Lessee will (unless the Unit is sold to the Lessee), at its own cost and expense, at the request of the Lessors, deliver possession of such Unit to the Lessors upon such storage tracks of the Lessee as the Lessors may reasonably designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessors to store such Unit on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessors; the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessors or any person designated by them, 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 Lessors or any prospective

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purchaser, the rights of inspection granted under this sentence. The movement, 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 Lessors shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to move, deliver, store and transport the Units, *provided, however*, that if the Court in the Reorganization Proceedings shall have ordered the liquidation of the Debtor's railroad property, the Lessee shall be required to perform such movement, delivery, storage and transportation only to the extent it is not prevented from doing so by an order of the Court. If Lessors shall elect to abandon any Unit which has suffered a Casualty Occurrence the Lessors may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessors harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. The Lessors shall execute and deliver to the Lessee a bill of sale or bills of sale transferring to the Lessee, or upon its order, the Lessors' title to and property in any Unit abandoned by them pursuant to the immediately preceding sentence. The Lessee shall have no liability to the Lessors in respect of any Unit abandoned by the Lessors after termination of the Lease; *provided, however*, that the foregoing clause shall not in any way relieve the Lessee of its obligations pursuant to § 7 hereof to make payments equal to the Casualty Value of the Unit experiencing a Casualty Occurrence while this Lease is in effect.

§ 15. *Opinion of Counsel.* On the Closing Date (as defined in the Conditional Sale Agreement), the Trustees will deliver to the Lessors a counterpart of the written opinion of counsel for the Trustees, addressed to the Lessors and the Agent, in scope and substance satisfactory to the Lessors, to the effect set forth in Section 6(f) of the Assignment and to the further effect that:

A. the Lease has been duly authorized by the Court upon due notice and duly executed and delivered by the Trustees and constitutes a valid, legal and binding agreement of the Trustees, enforceable in accordance with its terms;

B. this Lease has been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recordation will protect the Lessors' interests in and to the Units and no filing, recording or deposit (or giving of notice) with any other federal, state or local government is necessary in order to protect the interests of the Lessors in and to the Units; and

C. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease by the Trustees.

§ 16. *Recording; Expenses.* The Lessee will cause this Lease, the Conditional Sale Agreement and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessors under the Conditional Sale Agreement and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or re-record whenever required) any and all further instruments required by law or reasonably

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

The Lessee will pay all reasonable costs and expenses (other than fees and expenses of counsel for the Builder) incident to this Lease and the Conditional Sale Agreement, the first assignments of the Lease and the Conditional Sale Agreement (including the fees and expenses of an agent, if the first assignee is an agent), any instrument supplemental or related hereto or thereto, including all fees and expenses of counsel for the first assignee of the Lease and the Conditional Sale Agreement and all printing costs.

§ 17. *Federal Income Taxes.* It is the intent of the parties to this Lease that for federal income tax purposes, each of the Trust Agreements will create a "Grantor Trust" of which one of the Trustors is the owner and, in determining such Trustor's federal income tax, such Trustor shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof or subsequently (hereinafter called the Code), to an owner of property, including (without limitation) any investment tax credit with respect to the Units. It is agreed by the parties that this Section 17 is for the benefit of the Trustors and that each of the Lessors or the Trustors is vested with all the right, power and authority to enforce this Section 17. As of the Closing Date, it is contemplated that each of the Trustors will join in the filing of a consolidated federal income tax return. Nevertheless, this Section 17 shall be operative whether either Trustor files a separate return or is a member of an affiliated group which files a consolidated income tax return. (The term "Lessors" when used hereafter in this § 17 shall mean the Lessors and/or the Trustors as the context requires.)

The Lessee agrees that it will not at any time take any action or file any returns or other documents inconsistent with the foregoing. Lessee agrees to keep and make available for inspection and copying by Lessors such records as will enable Lessors to determine whether they are entitled to the benefit of any amortization or depreciation deduction or tax credit which may be available from time to time with respect to the Units.

If (other than for the reasons set forth in the fourth paragraph of this § 17) either of the Lessors shall lose, or shall not have or shall lose the right to claim, or if (other than for such reasons) there shall be disallowed with respect to either of the Lessors, all or any portion of the tax credits or amortization or depreciation deductions based on a depreciable life of not more than 12 years with respect to any Unit and based on the original use of such Unit having commenced with the Lessors, the rental rate set forth in § 3 and the Casualty Values set forth in § 7 of this Lease applicable to such Unit shall, on and after the next succeeding rental payment date after written notice to the Lessee by such Lessor that such

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credits or amortization or depreciation deductions have not been claimed, or if claimed and then disallowed on and after the next succeeding rental payment date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of such Lessor, will cause such Lessor's net return [after all income taxes, calculated on the assumption that such Lessor's Federal, state and local taxes computed by reference to net income or excess profits are based on a 48% effective Federal tax rate and the highest effective state and local income tax and/or excess profit tax rates generally applicable to such Lessor, including therein the effect of any applicable surtax, surcharge and/or other tax or charge related thereto, and deducting (to the extent at that time permitted by Federal Law) from any such Federal tax 48% of the amount of any such state and local tax, (such rates as so calculated being hereinafter in this Lease called the "Assumed Rates"), including any penalties thereon] in respect of such Unit under this Lease to equal the net return (after all income taxes at the Assumed Rates, including any penalties thereon) that would have been available if such Lessor had been entitled to utilization of all or such portion of such credits or amortization or depreciation deductions which were not claimed or were disallowed and the Lessee shall forthwith pay to such Lessor the amount of any interest which may be assessed by the United States against such Lessor attributable to the loss of all or any portion of such credits or amortization or depreciation deductions. "Lessor's net return", as used herein with respect to each of the Lessors shall be determined on the basis of, and consistent with, the after-tax yield calculations in fact utilized by each respective Lessor in determining the acceptability to it of the rental rate set forth in § 3 hereof.

The rental rate and Casualty Values shall not be increased as hereinabove provided in this § 17 to the extent that either of the Lessors shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to such Lessor, all or any portion of such credits or amortization or depreciation deductions with respect to such Unit as a direct result of the occurrence of any of the following events:

- (i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessors the amounts stipulated under § 7 hereof;
- (ii) a voluntary transfer by either of the Lessors of legal title to such Unit, the disposition by either of the Lessors of any interest in such Unit or the reduction by either of the Lessors of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;
- (iii) the amendment of the Conditional Sale Agreement prior to an event of default thereunder without the prior written consent of the Lessee;
- (iv) the failure of either of the Lessors to claim the same in its income tax return for the appropriate year or the failure of either of the Lessors to follow proper procedure in claiming the same; or
- (v) the failure of either of the Lessors to have sufficient income or income tax to benefit from such credits or depreciation.

If, in the opinion of either of Lessors' tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of such credits or amorti-

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zation or depreciation deductions on any Unit exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to a Lessor as above provided, such Lessor shall upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. Such Lessor may take such action prior to making payment of the amounts claimed pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, the Lessee shall advance to such Lessor, without interest, sufficient funds to make such payment. Such Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified such Lessor for all liabilities and expenses which may be incurred therein and shall have furnished such Lessor with such reasonable security therefor as may be requested. Such Lessor shall have the right to direct Counsel not to take, or to cease taking, any legal or other action deemed reasonable by Counsel in order to sustain any bona fide claim made hereunder, and such action by such Lessor shall relieve Lessee of its obligations under this § 17 in respect to such claim not so contested.

Upon receipt by such Lessor and/or the Lessee of any questions or issues with respect to any credits, deductions or other benefits as provided by the Code with regard to this Lease and/or the Equipment leased hereunder, such Lessor or the Lessee, as the case may be, shall give the other prompt notice of the questions or issues so raised and shall keep the other informed as to the status and progress of any proceedings regarding such questions or issues.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 17 shall survive the expiration or other termination of this Lease, and there shall be made all necessary retroactive adjustments in the rentals and Casualty Values theretofore paid in order to carry out the intent of this § 17, which adjustments shall, forthwith following the determination of the amounts thereof, be paid by the Lessee by means of one lump sum payment.

§ 18. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay as additional rental, to the extent legally enforceable, an amount equal to 12.5% per annum of the overdue rentals for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 19. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

(a) if to the Lessors, at 1500 Building, 15th and Chestnut Sts., Philadelphia, Pennsylvania, attention Corporate Trust Department; and

(b) if to the Lessee, at Reading Terminal, 12th and Market Streets, Philadelphia, Pennsylvania 19107, attention of Secretary and Treasurer;

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

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

This lease exclusively and completely states the rights of the Lessors and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. 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 officers of the Lessors and of the Lessee or its duly authorized representative and consented to in writing by the Agent.

§ 21. *Insurance.* The Lessee will maintain, at its sole cost and expense, at all times during the term of this Lease (and thereafter during the first three (3) month period in which the Units are being assembled and delivered to the locations specified in Section § 14 hereof), with reputable insurers acceptable to the Lessors and the Agent, insurance in an amount not less than the Casualty Value of each Unit leased hereunder, insuring against loss and destruction of, and damage to, such Unit arising out of fire, windstorm, explosion, and all other hazards and risks ordinarily subject to extended coverage insurance, and against such other hazards and risks as are customarily insured against by companies owning or leasing property of a similar character and engaged in a business similar to that engaged in by Lessee with a deductible amount not in excess of \$25,000. All such insurance policies shall (i) name the Lessors and Agent as additional insureds, with losses to be payable to the Lessors, the Agent and the Lessee as their respective interests may appear, (ii) provide that the policies will not be invalidated as against the Lessors or the Agent because of any violation of a condition or warranty of the policy or application therefor by Lessee, and (iii) provide that the policies may be materially altered or cancelled by the insurer only after thirty (30) days prior written notice to the Lessors and the Agent. The Lessee shall deliver to the Lessors or the Agent, prior to the commencement of the lease term for any Unit (or at such other time or times as the Lessors may request) a certificate or other evidence of the maintenance of all such insurance satisfactory to the Lessors and the Agent provided, however, that the Lessors and the Agent shall be under no duty to examine such certificate or other evidence of insurance, or to advise the Lessee in the event that its insurance is not in compliance with this Lease. In the event of failure on the part of the Lessee to provide and furnish any of the aforesaid insurance, the Lessors or the Agent may procure such insurance and the Lessee shall, upon demand, reimburse the Lessors and the Agent for all expenditures made by the Lessor for such insurance, together with interest thereon computed at the maximum rate of interest permitted by law, but not more than 12.5%, from the date of the Lessors' or the Agent's payment until reimbursed by the Lessee. The insurance policies shall also provide that upon receipt by the insurer from the Lessors or the Agent of any written notice of the occurrence of an Event of Default hereunder, any proceeds payable by said insurer with respect to any loss

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or destruction of, or damage to, any Unit, shall be payable solely to the Lessors or the Agent from the date of said insurer's receipt of such written notice, up to the date said insurer receives written notice from the Lessors that said Event of Default is no longer continuing hereunder.

§ 22. *Other Obligations.* Lessee agrees that, during the term of this Lease, Lessee will not assume or enter into any other leases of equipment, equipment trust agreements, conditional sale agreements or other liabilities or obligations in connection with the leasing or financing of the future acquisition of equipment or other tangible personal property other than that certain refinancing agreement between it and the United States dated October 1, 1973, with respect to 57 diesel locomotives, (i) if such liabilities or obligations would be entitled, directly or indirectly, to any priority in right of payment over the obligations of the Lessee under this Lease, or (ii) if such liabilities or obligations would be secured, directly or indirectly, by any mortgage, lien or other security interest in property of the Debtor or Lessee (except the equipment or other property involved in the particular transaction) unless the obligations of the Lessee under this Lease are equally and ratably secured thereby; provided that nothing herein shall restrict the right of the Trustees to issue and sell trustees' certificates for any proper purpose.

§ 23. *Execution.* This Lease may be executed in several counterparts, but the counterpart delivered to the Interstate Commerce Commission for recordation and subsequently redelivered to the Agent shall be deemed the original counterpart. Although this Lease is dated as of 1974, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

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

FIRST PENNSYLVANIA BANK N.A.,
as Trustee,

by Wm. C. Craig
Vice President

[CORPORATE SEAL]

Attest:

P. Roman
Assistant Secretary

LEASE OF RAILROAD EQUIPMENT

FIRST PENNSYLVANIA BANK N.A.,
as Trustee,

by Wm. Craig
Vice President

[CORPORATE SEAL]

Attest:

Mr. Roman
Assistant Secretary

Witness: Mary C. Levin ANDREW L. LEWIS, JR. Andrew Lewis [SEAL]
Trustee

Witness: Mary C. Levin JOSEPH L. CASTLE Joseph Castle [SEAL]
Trustee

As Trustees of the property
of Reading Company, Debtor
and not individually.

COMMONWEALTH OF PENNSYLVANIA } ss.:
COUNTY OF PHILADELPHIA

On this 14th day of November, 1974, before me personally appeared A. N. Krays, to me personally known, who, being by me duly sworn, says that he is a Vice President of First Pennsylvania Bank N.A., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Elizabeth J. Sabedra
Notary Public

Notary Public, Phila. Co.
My Commission Expires 3/1/76

[NOTARIAL SEAL]

LEASE OF RAILROAD EQUIPMENT

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF PHILADELPHIA } ss.:

On this ^{14th} day of November, 1974, before me personally appeared *A. M. Krayer*, to me personally known, who, being by me duly sworn, says that he is a Vice President of First Pennsylvania Bank N.A., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Elizabeth J. Sabedra
Notary Public

Notary Public, Phila. Co.
My Commission Expires *3/1/76*

[NOTARIAL SEAL]

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF PHILADELPHIA } ss.:

On this ^{21st} day of November, 1974, before me personally appeared Andrew L. Lewis, Jr. and Joseph L. Castle, Trustees of the property of Reading Company, Debtor, signers and sealers of the foregoing instrument, and they acknowledged the same to be their free act and deed, as such Trustees, before me.

Arthur Williams
Notary Public

Notary Public,
My Commission Expires
Notary Public, Philadelphia, Philadelphia Co.
My Commission Expires January 17, 1978

[NOTARIAL SEAL]

SCHEDULE A

Type	Builder's Specifications	Quantity	Debtor's Road Numbers (Inclusive)	Average Unit Base Price	Total Base Price	Delivery
GP-39-2 2300 h.p. General Purpose Diesel Electric Locomotives	8075	20	3401- 3420	\$299,912	\$5,998,240	EMD Plant, LaGrange, Illinois
MP-15 1500 h.p. Multi- Purpose Diesel Electric Locomotives	8097	10	2771- 2780	\$255,038	\$2,550,380	Same
Total					<u>\$8,548,620</u>	

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SCHEDULE I

<u>Last Lease Payment Month/Year</u>	<u>Percent of Purchase Price</u>
01/75	103.478
04/75	103.120
07/75	103.479
10/75	103.767
01/76	103.328
04/76	102.801
07/76	102.708
10/76	102.535
01/77	101.990
04/77	101.361
07/77	100.997
10/77	100.554
01/78	96.692
04/78	94.353
07/78	93.726
10/78	93.020
01/79	91.943
04/79	90.783
07/79	89.902
10/79	88.944
01/80	83.310
04/80	81.717
07/80	80.593
10/80	79.392
01/81	77.822
04/81	76.172
07/81	74.817
10/81	73.388
01/82	67.103
04/82	65.227
07/82	63.656
10/82	62.013
01/83	60.016
04/83	57.962
07/83	56.237
10/83	54.455
01/84	52.322
04/84	50.129
07/84	48.605
10/84	46.396
01/85	44.132
04/85	41.810
07/85	39.704
10/85	37.540
01/86	35.316
04/86	33.030
07/86	30.811

LEASE OF RAILROAD EQUIPMENT

SCHEDULE I (Continued)

<u>Last Lease Payment Month/Year</u>	<u>Percent of Purchase Price</u>
10/86	28.528
01/87	26.179
04/87	23.763
07/87	21.421
10/87	19.010
01/88	16.526
04/88	13.968
07/88	11.495
10/88	8.944
01/89	6.315
04/89	3.604
07/89	1.045
10/89	—