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CRAVATH, SWAINE & MOORE

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INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

No. 9-3124020

Date NOV 8 1979

Fee \$ 150.00

RECORDATION NO. Filed 1425

NOV 8 1979 - 8 55 AM

ICC Washington, D. C.

INTERSTATE COMMERCE COMMISSION
November 7, 1979

Winchester and Western Railroad Company
Lease Financing Dated as of October 1, 1979

Dear Ms. Mergenovich:

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

(1) (a) Conditional Sale Agreement dated as of October 1, 1979, between Merrill Lynch Leasing Inc. and Portec, Inc.; and

(b) Assignment of Conditional Sale Indebtedness dated as of October 1, 1979, among The Connecticut Bank and Trust Company, Merrill Lynch Leasing Inc. and Portec, Inc.;

(2) (a) Amended and Restated Lease of Railroad Equipment dated as of October 1, 1979, between Winchester and Western Railroad Company and Merrill Lynch Leasing Inc.; and

(b) Assignment of Lease and Agreement dated as of October 1, 1979, between The Connecticut Bank and Trust Company and Merrill Lynch Leasing Inc.;

NSC NO.

- A

- C

- D

C. J. Kessler
David [unclear]

-B (3) Security Agreement dated as of October 1, 1979, between Merrill Lynch Leasing Inc. and The Connecticut Bank and Trust Company ~~and~~

wey ~~(4) Purchase Agreement Assignment dated as of October 1, 1979, between ITEL Corporation and Merrill Lynch Leasing Inc.~~

The addresses of the parties to the aforementioned agreements are:

Agent:

The Connecticut Bank and Trust Company,
One Constitution Plaza,
Hartford, Connecticut 06115.

Manufacturer:

Portec, Inc.,
1800 Century Boulevard (Suite 6800),
Atlanta, Georgia 30345.

Lessee:

Winchester and Western Railroad Company,
In care of UNIMIN Corporation,
50 Locust Avenue,
New Canaan, Connecticut 06840.

Owner:

Merrill Lynch Leasing Inc.,
One Liberty Plaza,
165 Broadway,
New York, N. Y. 10080

Itel:

Itel Corporation,
Rail Division,
Two Embarcadero Center,
San Francisco, California 94111.

wrk The equipment covered by the agreements listed above at subparagraphs 1(a) ~~and~~ 1(b) ~~and~~ consists of 175 100-Ton, 4,000 Cubic Foot Covered Hopper Cars bearing the

road numbers of the Lessee WW3051-WW3225 (both inclusive). The equipment covered by the agreement listed above at subparagraph 3 consists of ~~20~~ 100-Ton, 4,000 Cubic Foot Covered Hopper Cars bearing the road numbers of the Lessee WW3001-WW3050 (both inclusive). The equipment covered by the agreements listed above at subparagraphs 2(a) and 2(b) consists of the units of equipment referred to in the next two preceding sentences. Each unit of such equipment bears the legend "Ownership Subject to a Security Interest Filed with the Interstate Commerce Commission". *WRF*

Please cross-reference the Security Agreement and the Amended and Restated Lease of Railroad Equipment with the Lease of Railroad Equipment dated as of June 25, 1979, between Merrill Lynch Leasing Inc. and Winchester and Western Railroad Company, Recordation No. 10585, filed on July 3, 1979, at 2:00 p.m.

Enclosed is our check for \$⁽¹⁵⁰⁾200 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. *WRF*

Very truly yours,

William R. Giusti

William R. Giusti
As Agent for Winchester and
Western Railroad Company.

Agatha L. Mergenovich, Secretary,
Interstate Commerce Commission,
Washington, D.C. 20423

Encls.

Interstate Commerce Commission

Washington, D.C. 20423

11/8/79

OFFICE OF THE SECRETARY

William R. Giusti
Cravath, Swaine & Moore
One Chase Manhattan Plaza
New York, N.Y. 10005

Dear Sir:

The enclosed document (s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 11/8/79 at 8:55am, and assigned re-
recording number (s). 11031, 11031-A, 11031-B, 11031-C, 11031-D

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure (s)

11031

RECORDATION NO.....Filed 1425

NOV 8 1979 8 55 AM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

between

PORTEC, INC.,

as Seller

and

MERRILL LYNCH LEASING INC.,

as Owner

Dated as of October 1, 1979

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CONDITIONAL SALE AGREEMENT

CONDITIONAL SALE AGREEMENT dated as of October 1, 1979 between PORTEC, INC., a Delaware corporation (the "Seller"), and MERRILL LYNCH LEASING INC., a Delaware corporation (the "Owner"). Capitalized terms used herein without other definition are used with the meanings given in Section 1.

R E C I T A L S :

A. The Seller is willing to construct, sell and deliver to the Owner, and the Owner is willing to purchase, the Equipment, as described in Schedule A hereto.

B. Pursuant to this Agreement, the Seller will deliver and sell to the Owner the Equipment against payment in part by the Owner of the Aggregate Purchase Price therefor, reserving to the Seller hereby a security interest in the Equipment to secure the payment by the Owner of the balance of the Aggregate Purchase Price and the performance by the Owner of and compliance by the Owner with its covenants herein contained.

C. The Seller and the Owner contemplate that the Equipment will be leased by the Owner to the Lessee pursuant to the Lease, that the indebtedness of the Owner secured by the foregoing security interest will be acquired from the Seller by the Agent, that such security interest will be assigned by the Seller to the Agent to be held by the Agent as security for the payment of such indebtedness and all other amounts payable to the Agent and the Lenders pursuant hereto or pursuant to the Participation Agreement, and that to secure further the payment of such indebtedness, the Owner will also grant to the Agent a security interest in the Original Equipment and in the Owner's rights under the Lease.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

SECTION 1. DEFINITIONS.

The following terms shall have the following meanings unless the context shall otherwise require:

Additional Rent: as defined in Section 3.2 of the Lease.

Agent: The Connecticut Bank and Trust Company, a Connecticut banking corporation, in its capacity as agent under the Participation Agreement, and its successors as agent thereunder.

Aggregate Purchase Price: as defined in Section 4.1.

Assignment: the Assignment of Conditional Sale Indebtedness, dated as of the date hereof, among the Seller, the Agent and the Owner, providing for the assignment by the Seller to the Agent of its right, title and interest in and to the Conditional Sale Indebtedness and the Conditional Sale Agreement, and including therein the Owner's consent to such assignment, as from time to time amended, modified or supplemented in accordance with its terms.

Basic Rent: as defined in Section 3.1 of the Lease.

Business Day: any day other than a Saturday, a Sunday or any other day on which banking institutions in Connecticut, Virginia or New York are required or authorized by law to be closed.

Casualty Occurrence: as defined in Section 7.1 of the Lease.

Casualty Value: as defined in Section 7.1 of the Lease.

Certificate of Acceptance: a certificate delivered, pursuant to Section 2 of the Lease, by a representative of the Owner who is an employee of the Lessee upon delivery by the Seller and acceptance by Lessee of units of the Additional Equipment, which certificate shall also serve to confirm that such units have been inspected and, subject to the conditions set forth in Section 3.1 of this Agreement, accepted on behalf of the Owner for all purposes of this Agreement.

Closing: the closing of the delivery of the Additional Equipment under the Conditional Sale Agreement and of the related transactions contemplated by Sections 2, 3 and 4 of the Participation Agreement.

Closing Date: the date of the Closing.

Conditional Sale Default: any event or condition which after the giving of notice or the lapse of time or both would become a Conditional Sale Event of Default.

Conditional Sale Event of Default: as defined in Section 17.

Conditional Sale Indebtedness: as defined in Section 4.1.

Consent: the Lessee's Consent and Agreement to the assignment of the Lease, dated as of the date hereof, as from time to time amended, modified or supplemented in accordance with its terms.

Declaration of Default: as defined in Section 17.

Down Payment: the portion of the cash purchase price for the Additional Equipment paid by the Owner under Section 4.1, as more fully defined therein.

Equipment: the units of railroad equipment set forth in Schedule A hereto, subject to exclusion as provided in Section 3.1, together with all additions, modifications or improvements thereto or replacements thereof as contemplated by Section 4.2.

Guarantor: Unimin Corporation, a Delaware corporation, and its successors and assigns.

Impositions: as defined in Section 8.

Iitel: Iitel Corporation, a Delaware corporation, acting through its Rail Division, and its successors and assigns.

Lease: the Amended and Restated Lease of Railroad Equipment, dated as of the date hereof, between the Owner and the Lessee, providing for the lease of the Equipment by the Lessee, as from time to time amended, modified or supplemented in accordance with its terms.

Lease Assignment: the Assignment of Lease and Agreement, dated as of the date hereof, between the Owner and the Agent, granting to the Agent a security interest in

and assigning all the Owner's right, title and interest in, to and under the Lease, as from time to time amended, modified or supplemented in accordance with its terms.

Lease Default: any event or condition which after the giving of notice or the lapse of time or both would become a Lease Event of Default.

Lease Event of Default: any of the events or conditions defined as "Events of Default" in Section 16.1 of the Lease.

Lender: each of the Equitable Life Assurance Society of the United States and MLL Leasing Corp., and their respective successors and assigns.

Lessee: Winchester and Western Railroad Company, a Virginia corporation, and its successors and assigns.

Lien: any mortgage, pledge, lien, charge, encumbrance, retention of title, security interest or claim.

Officers' Certificate: as to any corporation, a certificate signed by the Chairman of the Board or the President or any Vice President and by any other Vice President or the Treasurer or any Assistant Treasurer or the Secretary or any Assistant Secretary of such corporation.

Original Agreements: the Purchase Agreement, dated as of June 25, 1979, among the Owner and ITEL Corporation, Rail Division; the Participation Agreement, dated as of June 25, 1979, among the Owner, the Lessee and the Guarantor; the Original Lease; and the Guaranty Agreement, dated as of June 25, 1979, by the Guarantor.

Original Equipment: the units of railroad equipment set forth in Schedule A to the Security Agreement, together with all additions, modifications or improvements thereto or replacements thereof as contemplated by Section 2 of the Security Agreement.

Participation Agreement: the Participation Agreement, dated as of the date hereof, among the Owner, the Agent, the Lessee, the Guarantor and the Lenders, and consented to by ITEL, as from time to time amended, modified or supplemented in accordance with its terms.

Payment Date: as defined in Section 4.1.

Permitted Liens: liens of taxes, assessments or governmental charges or levies, in each case not due and delinquent; inchoate mechanics', materialmen's, repairmen's or other similar liens arising in the ordinary course of business and not delinquent; and any lien created by the Security Documents.

Purchase Agreement: the documentation evidencing the agreement between Itel and the Seller providing, among other things, for the purchase by Itel of the Additional Equipment, and consisting of letters dated May 12, 1978 from the Seller to Itel, May 23, 1978 from Itel to the Seller, May 25, 1978 from Itel to the Seller, October 23, 1978 from Itel to the Seller and November 7, 1978 from the Seller to Itel.

Purchase Price: as defined in Section 2.

Security Agreement: the Security Agreement between the Owner and the Agent, dated as of the date hereof, granting to the Agent a security interest in all the Owner's right, title and interest in and to the Original Equipment, as from time to time amended, modified or supplemented in accordance with its terms.

Security Agreement Default: any event or condition which after the giving of notice or the lapse of time or both would become a Security Agreement Event of Default.

Security Agreement Event of Default: any of the events or conditions defined as "Security Agreement Events of Default" in Section 13 of the Security Agreement.

Security Documents: the Security Agreement, the Assignment, the Lease Assignment and this Agreement.

Specifications: as set forth in Schedule A attached hereto.

Termination Date: as defined in Section 13 of the Lease.

Unit: a unit of the Equipment.

SECTION 2. SALE OF UNITS.

Subject to the terms and conditions of Sections 3, 4, 5 and 6, the Seller will sell and deliver to the Owner,

and the Owner will purchase from the Seller and accept delivery of and pay for the Equipment identified on Schedule A hereto for a fixed price of \$40,387.82 per unit (the "Purchase Price"). The Owner shall pay to the Seller an additional sum of \$121,524 for transportation of the Units, to the places and in the manner designated by the Owner in a letter dated the date hereof from the Owner to the Seller.

SECTION 3. INSPECTION AND ACCEPTANCE, ETC.

3.1 Inspection and Acceptance; Effect of Non-acceptance; Delivery. Prior to delivery of any Unit, it shall be subject to inspection where it is then located by any authorized representative of the Lessee or the Owner, and the Seller shall make all arrangements necessary to permit any such inspection. The Owner shall have received from the Lessee or the Seller at least three Business Days' prior written notice of the proposed date of delivery (the "Closing Date") of the Equipment (which shall all be delivered on the same date) and the delivery point or points at which such delivery is proposed to be made. The Seller shall sell and the Owner shall purchase the Equipment so tendered for delivery on the Closing Date, subject to the inspection and acceptance thereof by the Lessee pursuant to Section 2 of the Lease and to the following conditions:

(a) the Seller shall not deliver and the Owner shall have no obligation to accept the Equipment if a Conditional Sale Default or Event of Default has occurred and is continuing;

(b) the Seller may postpone the Closing Date by reason of force majeure, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riots or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors;

(c) the Owner shall not be obligated to accept and pay for any Unit if the price thereof exceeds the Purchase Price;

(d) the obligation of the Owner to accept delivery of and to pay for any Unit under this Agreement shall be subject to the fulfillment to the

satisfaction of the Owner of the conditions set forth in Section 5 hereof and in Section 4 of the Participation Agreement, the fulfillment to the satisfaction of the Lenders of the conditions set forth in Section 5 hereof and Section 3 of the Participation Agreement and the acquisition by the Agent of the Conditional Sale Indebtedness as set forth in Section 2.4 of the Participation Agreement; and

(e) the obligation of the Seller to deliver any Unit under this Agreement shall be subject to the fulfillment to the satisfaction of the Seller of the conditions set forth in Section 6.

Acceptance of any Unit by the Lessee pursuant to Section 2 of the Lease shall constitute acceptance of such Unit by the Owner hereunder if the conditions set forth in subparagraphs (a), (c) and (d) of this Section 3.1 have been complied with to the satisfaction of the Owner.

Each Unit not accepted by the Lessee and the Owner on the Closing Date pursuant to this Section 3.1 shall be excluded from this Agreement and shall no longer constitute a "Unit" or be part of the "Equipment" for any purposes of this Agreement.

After acceptance by the Owner and the Lessee hereunder, the Seller shall deliver the Equipment to the places and in the manner designated by the letter referred to in Section 2 above.

3.2 Risk of Loss. The Seller shall bear all risk of loss or damage to each Unit until it shall have been delivered and accepted pursuant to Section 3.1, and thereafter, as between the Owner and the Seller, such risk of loss or damage shall be borne by the Owner.

SECTION 4. PAYMENT; CREATION OF SECURITY INTEREST AND CONDITIONAL SALE INDEBTEDNESS.

4.1 Payment and Creation of Conditional Sale Indebtedness. The Owner hereby acknowledges itself to be indebted to the Seller for, and hereby promises to pay to the Seller, at such bank or trust company in New York as the Seller shall designate for payment to it, the aggregate Purchase Price for all Units delivered and accepted on the Closing Date pursuant to Section 3 (the "Aggregate Purchase Price"), as follows:

(a) in 198 monthly installments, as hereinafter provided, an amount (the "Conditional Sale Indebtedness") equal to 95.389989% of the Aggregate Purchase Price; and

(b) on the Closing Date, an amount in cash equal to the Aggregate Purchase Price less the amount provided under clause (a) of this sentence (the "Down Payment").

An installment of the Conditional Sale Indebtedness shall be due and payable on the date of the calendar month next succeeding the calendar month in which the Closing Date occurs which corresponds to the Closing Date, and on the same date of each calendar month thereafter, or if any such month does not have a corresponding date, then the date of the last day of such month (each such date being herein called a "Payment Date"), until the Conditional Sale Indebtedness shall have been paid in full. If any Payment Date falls on a day that is not a Business Day, then the payment due on such Payment Date shall be due on the next succeeding Business Day. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the Closing Date at the rate of 11% per annum, which interest shall be due and payable on each Payment Date until the unpaid balance is paid in full. The installments of principal payable on each Payment Date shall be calculated on such a basis that the amount and allocation of principal and interest on such Payment Date shall be as set forth in Schedule B to this Agreement. Promptly following the Closing Date, the Owner will furnish to the Seller and the Agent a payment schedule or schedules showing the respective amounts of principal and interest payable on each Payment Date.

All interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Owner will pay on demand interest at the rate of 12% per annum, or, if less, the maximum rate permitted by applicable law, upon all amounts of Conditional Sale Indebtedness, and (to the extent permitted by applicable law) interest thereon, remaining unpaid after the same shall have become due and payable pursuant to the terms hereof.

All payments provided for in this Agreement shall be made by the Owner in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

Except as provided in the next paragraph of this Section 4.1 and in Section 9.2, the Owner shall not have the privilege of prepaying the Conditional Sale Indebtedness or any installment thereof prior to the date it is due and payable hereunder.

In the event that the Lessee elects to terminate the Lease pursuant to the provisions of Section 13 thereof, the Owner shall promptly give written notice to the Agent of such election and of the Termination Date. On the Termination Date, the unpaid balance of the Conditional Sale Indebtedness shall become due and payable, without premium, but together with any interest accrued thereon, and the Owner shall apply to such prepayment all payments received by it from the Lessee pursuant to Section 13 of the Lease.

4.2 Creation of Security Interest. The Seller hereby retains a security interest in each Unit to secure the payment of the Conditional Sale Indebtedness and all other indebtedness and amounts payable by the Owner pursuant to this Agreement and the performance by the Owner of all of its obligations and agreements contained in this Agreement, notwithstanding the provisions of Section 20 limiting the liability of the Owner and notwithstanding the delivery of the Units to, and the possession and use of the Units by, the Owner and the Lessee as contemplated by this Agreement and the Lease.

The security interest created by this Section 4.2 shall extend to any and all additions, modifications and improvements to the Equipment which become the property of the Owner pursuant to the Lease, and any and all replacements of the Equipment or of any part thereof shall constitute accessions to the Equipment, shall be subject to all terms and conditions of, and the security interest created by, this Agreement, and shall be included in the term "Equipment" as used in this Agreement.

SECTION 5. OWNER'S CONDITIONS TO CLOSING.

The obligation of the Owner to make the Down Payment on the Closing Date shall be subject to the receipt

by the Owner on or prior to the Closing Date of the following documents and instruments in form and substance satisfactory to the Owner and counsel for the Owner:

(a) a bill or bills of sale, dated the Closing Date, from the Seller to the Owner, transferring to the Owner title to the Units being delivered on the Closing Date, warranting to the Owner that at the time of such delivery the Seller has good and lawful right to sell such Units and has conveyed to the Owner legal title to such Units free of all Liens except the Lien in favor of the Seller created in Section 4.2 and rights created under the Participation Agreement, the Lease and the Lease Assignment, and covenanting to defend such title against all claims of other persons;

(b) the Certificate or Certificates of Acceptance of the Lessee, dated the Closing Date, relating to such Units;

(c) an invoice of the Seller and addressed to the Owner, covering such Units and containing a certification by the Seller that the Aggregate Purchase Price is true and correct;

(d) an invoice of the Seller and addressed to the Owner, covering the transportation costs with respect to such Units; and

(e) an Officers' Certificate of the Seller to the effect that each Unit (except the Units set forth in Schedule E to the Lease) is new standard-gauge railroad equipment first put into service no earlier than the date of delivery and acceptance thereof by or on behalf of the Owner.

SECTION 6. SELLER'S CONDITIONS TO CLOSING.

The obligation of the Seller to deliver the bill or bills of sale referred to in Section 5(a) shall be subject to the receipt by the Seller in cash or other immediately available funds of (a) from the Owner, the Down Payment, and (b) from the Agent, as more fully set forth in the Assignment, an amount equal to the Conditional Sale Indebtedness.

SECTION 7. RELEASE OF SECURITY INTEREST IN EQUIPMENT.

When and (except as provided in Section 9.2) only when the Owner shall have paid and the Seller (or its assignee pursuant to Section 16.2) shall have received the full Conditional Sale Indebtedness, together with interest

and all other indebtedness and payments payable under this Agreement, and all the Owner's obligations contained in this Agreement, the Security Agreement, the Assignment, the Lease Assignment and the Participation Agreement shall have been performed, the Seller's security interest in the balance of the Equipment then subject to such security interest shall be released without further transfer or action on the part of the Seller (or such assignee), provided that the Seller (or such assignee), if so requested by the Owner at that time, will at the Owner's expense (a) execute and deliver to the Owner a bill or bills of sale for such Equipment, in form reasonably satisfactory to the Owner, releasing its security interest therein to the Owner free of all Liens created by or retained in this Agreement, (b) execute and deliver to the Owner, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the release of the Seller's security interest in such Equipment and (c) pay to the Owner any money paid to the Seller (or such assignee) pursuant to Section 9.2 and not theretofore applied as therein provided. The Owner hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver any such bill or bills of sale or instrument or instruments or to file any such certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Owner.

SECTION 8. TAXES.

All payments to be made by the Owner hereunder will be free of expense to the Seller for collection or other charges and will be free of expense to the Seller with respect to the amount of any local, state, federal or foreign taxes (other than net income taxes, gross receipts taxes [except gross receipts taxes in the nature of or in lieu of sales, use or rental taxes], franchise taxes measured by net income based upon such receipts, excess profits taxes and similar taxes) or license fees, assessments, documentary stamp taxes, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being referred to herein as "Impositions") now or hereafter levied or imposed upon or in connection with or measured by this Agreement or the Equipment or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which Impositions the Owner assumes and agrees to pay on demand in addition to the Conditional Sale Indebtedness and all other amounts payable by the Owner under this

Agreement. The Owner will also pay promptly all Impositions which may be imposed upon the Equipment or any Unit thereof delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Seller solely by reason of the Owner's ownership thereof or the Seller's security interest therein and will keep at all times all and every part of the Equipment free and clear of all Impositions which might in any way affect the security interest of the Seller or result in a Lien upon all or any part of the Equipment, provided that the Owner shall be under no obligation to pay any Impositions of any kind so long as it is contesting in good faith (after written notice to the Seller) and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the opinion of the Seller, adversely affect the security interest or rights of the Seller in or to the Equipment or otherwise under this Agreement. If any Impositions shall have been charged or levied against the Seller directly and paid by the Seller, the Owner shall reimburse the Seller, upon presentation of an invoice therefor, and any amounts so paid by the Seller shall be secured by and under this Agreement, provided that the Owner shall not be obligated to reimburse the Seller for any Impositions so paid unless the Seller shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Seller) or unless the Owner shall have approved in writing the payment thereof. (All amounts paid by the Owner pursuant to this Section 8 shall be grossed-up, so that the person to whom or for whose benefit the payment is made shall receive an amount which, net of any Impositions or other charges required to be paid by such person in respect thereof, shall be equal to the amount of payment otherwise required hereunder.)

SECTION 9. MAINTENANCE OF EQUIPMENT; CASUALTY OCCURRENCES.

9.1 Maintenance and Repair. The Owner agrees that, at its own cost and expense, it will maintain and keep each Unit in good operating order, repair and condition.

9.2 Casualty Occurrences. (a) The Owner shall promptly notify the Seller of a Casualty Occurrence with respect to any unit of the Original Equipment or the Equipment, setting forth in such notice the Casualty Value of such unit as of the Payment Date next following the date of such notice. Notwithstanding any such Casualty Occurrence, the Owner shall continue making payment of all installments of principal and interest on the Conditional

Sale Indebtedness due prior to or on such Payment Date, and on such Payment Date the Owner shall, subject to the provisions of Section 20, in addition, pay to the Seller a sum equal to such Casualty Value. Any amounts paid to the Seller pursuant to this Section 9.2 shall be applied on such Payment Date (after the payment of the interest and principal due and payable on the Conditional Sale Indebtedness on such Payment Date) to prepay a portion of each of the remaining installments of the Conditional Sale Indebtedness then outstanding, and accrued and unpaid interest thereon, if any, but without premium in an amount equal to the amount of each such installment multiplied by the number of units subjected to such Casualty Occurrence and divided by the number of units of Original Equipment and Equipment subject to the Lease immediately prior to such Casualty Occurrence, and any balance remaining of such payment of Casualty Value shall, subject to the Assignment and the Lease Assignment, be applied as the Owner may direct. Upon any such payment, the Owner will promptly furnish to the Seller and the Lessee a revised schedule of payments of principal and interest thereafter to be made in respect of the remaining Conditional Sale Indebtedness in such number of counterparts as the Seller may request.

(b) Upon payment by the Owner to the Seller of the Casualty Value of any Unit, the Seller's security interest in such Unit shall be released without further transfer or action on the part of the Seller, except that the Seller, if requested by the Owner, will execute and deliver to the Owner, at the expense of the Owner, an appropriate instrument confirming such release, in recordable form, in order that the Owner may make clear upon the public records the release of the Seller's security interest in such Unit, provided that, in the event of a Casualty Occurrence with respect to the last Unit still subject to this Agreement, such security interest shall not be released unless the conditions of Section 7 shall be met.

(c) The Seller shall be entitled to receive any insurance proceeds or condemnation payments in respect of any Unit and shall, if no Conditional Sale Default or Event of Default shall have occurred and be continuing, pay such insurance proceeds or condemnation payments to the Owner, (i) in the case of any such insurance proceeds or condemnation payments received in respect of any Unit suffering a Casualty Occurrence, upon receiving payment of the Casualty Value for such Unit and (ii) in the case of any such

insurance proceeds or condemnation payments received in respect of any Unit not suffering a Casualty Occurrence, upon proof satisfactory to the Seller that any damage to such Unit in respect of which such insurance proceeds were paid has been fully repaired or that any Unit in respect of which such condemnation payments were made has been returned to the full possession of the Owner or the Lessee. If a Conditional Sale Default or Event of Default shall have occurred and be continuing, the Seller shall retain any such insurance proceeds or condemnation payments until either the preceding sentence of this Section 9.2(c) becomes applicable or a Declaration of Default is made, and thereafter shall apply such insurance proceeds or condemnation payments as set forth in the preceding sentence of this Section 9.2(c) or in Section 19.4, as the case may be.

SECTION 10. REPORTS AND INSPECTIONS.

On or before March 31 in each year, commencing with the calendar year 1980, the Owner shall furnish or cause to be furnished to the Seller (a) the statement required to be delivered by such date by the Lessee under Section 8 of the Lease and (b) such other information regarding the condition and state of repair of the Equipment as the Seller may reasonably request. The Seller shall have the right, by its agents, to inspect the Equipment and the Owner's records with respect thereto at such reasonable times as the Seller may request during the continuance of this Agreement.

SECTION 11. MARKING OF EQUIPMENT.

(a) The Owner will cause each Unit to be kept numbered with the identifying number as set forth in Schedule A to this Agreement, 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 Agreement 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 following legend: "Ownership Subject to a Security Interest Filed with the Interstate Commerce Commission", or other appropriate words designated by the Seller (including any assignee of the Seller pursuant to Section 16.2), with appropriate changes thereof and additions thereto as from time to time may be required by law

in order to protect the Seller's security interest in such Unit and its rights under this Agreement. The Owner will not knowingly permit any Unit to be placed in operation or exercise any control over the same until such legend shall have been so marked on both sides thereof and will replace or will cause to be replaced promptly any such legend which may be removed, obliterated, defaced or destroyed. The Owner will not knowingly permit the identifying number of any Unit to be changed unless and until a statement of the new number or numbers to be substituted therefor shall have been filed with the Seller and filed, recorded and deposited by the Owner in all public offices where this Agreement, or any Uniform Commercial Code financing statement or similar instrument relating thereto, shall have been filed, recorded and deposited.

(b) The Owner 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, except as above provided and except that the Owner may allow the Equipment to be lettered with the names, trademarks, 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 the rights of the Lessee or its affiliates to use the Equipment as permitted under the Lease.

SECTION 12. COMPLIANCE WITH LAWS AND RULES.

During the term of this Agreement, the Owner will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its or such lessees' operations involving any Unit may extend and with rules and regulations of any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that any such law, rule or regulation requires any alteration, replacement or modification of or to any Unit or any part thereof, the Owner will comply with such law, rule or regulation at its own expense, provided that the Owner may, after giving written notice to the Seller, in good faith contest or cause to be contested the validity or application of any such law, rule or regulation in any reasonable

manner which does not, in the opinion of the Seller, adversely affect the security interest or rights of the Seller in or to any Unit under this Agreement.

SECTION 13. POSSESSION AND USE, ETC.

13.1 Possession and Use. The Owner, so long as a Conditional Sale Event of Default shall not have occurred and be continuing, shall be entitled, from and after delivery of each Unit to the Owner, to the possession of such Unit and the use thereof, but only upon and subject to all the terms and conditions of this Agreement, the Assignment, the Lease and the Lease Assignment. The Owner shall not permit any lessee or user of the Equipment to use any Unit in regular use, or assign any Unit for regular use, outside of the United States of America.

13.2 Equipment Subject to Lease. The parties hereto acknowledge that the Owner simultaneously herewith is leasing the Equipment to the Lessee for use as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinate and junior in rank to the rights, and shall be subject to the remedies, of the Seller under this Agreement. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Seller.

SECTION 14. PROHIBITION AGAINST LIENS.

The Owner will not directly or indirectly create or permit or suffer to be created or to remain, and will pay or discharge any and all sums claimed by any party from, through or under the Owner or its successors or assigns which, if unpaid, might become a Lien on or with respect to any unit of the Equipment or the Original Equipment or any part thereof, or the Owner's interest in the Lease or the payments due and to become due thereunder, or any part thereof, other than Permitted Liens, and will promptly discharge any such Lien which arises, but shall not be required to pay or discharge any such claim or Lien so long as (i) the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner, (ii) prompt notice of such contest is given to the Seller, and (iii) the nonpayment or nondischarge of such Lien thereof does not, in the reasonable opinion of the Seller, materially adversely affect the

interest of the Owner or the security interest or rights of the Seller in or to the Equipment or the Original Equipment or proceeds thereof or any other rights of the Seller under this Agreement or in and to the Lease and the payments due or to become due thereunder or any rights or interest of the Seller or the Agent under any Security Document. The Seller may, in its discretion, discharge any Liens on or with respect to the Equipment or the Original Equipment or the Owner's interest in the Lease which have arisen in breach of this Section 14, and the Owner shall reimburse the Seller for any amounts paid by the Seller to discharge such Liens. Any such amounts so paid by the Seller and not reimbursed shall constitute additional indebtedness of the Owner to the Seller secured by and under this Agreement.

The foregoing provisions of this Section 14 shall be subject to the limitations set forth in Section 20, provided that in any event the Owner will, without regard to such limitations, pay or discharge or cause to be paid or discharged any and all sums claimed by any party from, through or under the Owner or its successors or assigns, (a) arising out of any event or condition not related to the transactions contemplated by this Agreement or (b) arising out of the failure of the Owner to pay net income or franchise taxes which in either case, if unpaid, might become a Lien on or with respect to any unit of the Equipment or the Original Equipment or any part thereof, or the Owner's interest in the Lease and the payments due or to become due thereunder, or any part thereof, but the Owner shall not be required to pay or discharge or cause to be paid or discharged any such claim so long as the validity thereof shall be contested as provided in clauses (i) through (iii) of the preceding paragraph. For purposes of the foregoing proviso, the term "Owner" shall include any affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Owner is a member if consolidated returns are filed for such affiliated group for federal income tax purposes.

SECTION 15. INDEMNITIES AND WARRANTIES; RISK OF LOSS.

15.1 Owner's Indemnity. The Owner agrees to indemnify, protect and hold harmless the Seller from and against all losses, damages, injuries, liabilities, suits, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to the following: reasonable counsel fees and expenses,

penalties and interest arising out of or as the result of the entering into or the performance, or the enforcement of performance (whether or not suit is instituted) of this Agreement; the retention by the Seller of a security interest in the Equipment; the ordering, acquisition, use, operation, maintenance, condition, reconstruction, purchase, delivery, rejection, storage or return of any of the Equipment; any accident in connection with the operation, use, condition, reconstruction, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when security title to or a security interest in the Equipment remains in the Seller; or the transfer of title to any Unit by the Seller pursuant to any of the provisions of this Agreement; but excluding any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder or under the Purchase Agreement by the Seller. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the Conditional Sale Indebtedness, and the release of the security interest in any or all Units, as provided in Section 7, or the termination of this Agreement in any manner whatsoever.

15.2 Risk of Loss on Owner. The Owner will bear the responsibility for and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any or all of the Units.

15.3 Seller's Warranties and Indemnity. The Seller warrants to the Owner, the Lessee, the Agent and the Lenders that the units of Equipment have been built in accordance with the specifications approved and agreed to by ITEL and warrants that the Equipment sold to the Owner is free from defects in material (except as to specialities incorporated therein which were specified or supplied by ITEL and not manufactured by the Seller) and workmanship or design (except as to designs specified by ITEL and not developed or purported to be developed by the Seller) under normal use and service; the Seller's obligation under this paragraph being limited to making good at its plant (or at the option of the Seller at a place designated by the Seller and agreed upon by the Owner or the Lessee) any part or parts of any Unit which shall be returned to the Seller within one year after the delivery of such Unit, or as to which written notice of

such defect has been given by the Owner or the Lessee to the Seller within one year after delivery of such Unit and which part or parts are returned within 90 days after such notice to the Seller, provided that the Seller's examination shall disclose to its reasonable satisfaction such part or parts to have been thus defective. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE SELLER. The Seller neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid. THE SELLER SHALL NOT BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES OF WHATEVER NATURE.

The Seller agrees that the Lessee or the Owner, as well as the Seller, may to the extent permitted by law take and prosecute claims against vendors of specialities purchased by the Seller for incorporation in the Additional Equipment and not warranted hereunder for the breach of any warranty by the vendors with respect to such specialities. The Seller, the Owner and the Lessee (as a condition of their being a third party beneficiary hereof) each agree to notify the other prior to the assertion of any claim by them against any such vendors of specialities. If the Seller determines that it has no interest in any such claim asserted by the Lessee or the Owner, the Seller agrees to assign to the Lessee or the Owner, as the case may be, solely for the purpose of making and prosecuting any such claim, all of the rights which the Seller has against such vendor for the breach of warranty or other representation respecting the Equipment.

The Seller further agrees that neither the inspection nor any examination or acceptance of any of the Units shall be deemed a waiver or modification of any of the rights hereunder.

It is further understood and agreed that the word "design(s)" as used herein and the word "specialities" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

Except in case of designs, processes or combinations specified by ITEL or the Lessee and not developed or purported to be developed by the Seller, and articles and materials specified by ITEL or the Lessee and not

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

SECTION 16. ASSIGNMENTS.

16.1 By the Owner. The Owner will not (a) except as provided in Section 13.2, transfer the right to possession of any Unit or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Seller hereunder (including, without limitation, rights and remedies against the Owner) and (ii) is made in accordance with the provisions, including those relating to permitted assignees, set forth or referred to in Section 17.4 of the Participation Agreement and the assignee expressly assumes, in writing, in form reasonably satisfactory to the Seller, all the obligations of the Owner under this Agreement.

16.2 By the Seller, etc. All or any of the rights, benefits and advantages of the Seller under this Agreement, including the right to receive the payments of principal of and interest on the Conditional Sale Indebtedness and the other payments herein provided to be made by the Owner, may be assigned by the Seller and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Seller from, any of the Seller's obligations to deliver the Equipment in accordance herewith or to respond to its warranties and indemnities contained or referred to in Section 15.3 or relieve the Owner of its obligations to the Seller or diminish the rights of the Owner contained or referred to in this Agreement.

Upon any such assignment by the Seller, either the assignor or the assignee shall give written notice to the Owner, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Owner of the notification of any such assignment, all payments thereafter to be made by the Owner under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Owner acknowledges that the Seller intends, concurrently with the creation of the Conditional Sale

Indebtedness, to assign its rights under this Agreement and to the Conditional Sale Indebtedness to The Connecticut Bank and Trust Company, as Agent, pursuant to the Assignment, and agrees to enter into such Assignment for the purpose of consenting thereto and confirming to such Agent all of the Owner's obligations hereunder.

SECTION 17. EVENTS OF DEFAULT.

If any one or more of the following events or conditions ("Conditional Sale Events of Default") shall occur and be continuing (without regard to any provision of this Agreement, including Section 20, limiting the liability of the Owner):

(a) any Lease Event of Default; or

(b) any Security Agreement Event of Default; or

(c) the Owner shall fail to pay in full any sum payable by the Owner when payment thereof shall be due hereunder and such failure shall continue for more than ten days thereafter; or

(d) the Owner shall make any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any Unit, or shall permit any Lien to arise with respect to any Unit in contravention of the provisions of Section 14; or

(e) the Owner shall, for more than 30 days after the Seller shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement or of the Participation Agreement, the Security Agreement, the Lease, the Lease Assignment or any consent by the Owner to any assignment referred to in Section 16.2 on its part to be kept and performed, or shall fail to make provision satisfactory to the Seller for such compliance; or

(f) the Owner shall (i) be generally not paying its debts as they become due, (ii) file, or consent by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy or insolvency

law of any jurisdiction, (iii) make an assignment for the benefit of its creditors, (iv) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, or (v) take corporate action for the purpose of any of the foregoing; or

(g) a court or governmental authority of competent jurisdiction shall enter an order, appointing, without consent by the Owner, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Owner, or if any such petition shall be filed against the Owner and such petition shall not be dismissed within 30 days; or

(h) any representation or warranty made by the Owner hereunder or under any consent by the Owner to any assignment referred to in Section 16.2 or under the Participation Agreement or the Security Agreement or the Lease Assignment, or by any officer or representative of the Owner in any document or certificate furnished to the Seller or any assignee thereof in connection herewith or therewith or pursuant hereto or thereto, shall prove at any time to have been incorrect in any material respect as of the date made;

then at any time after the occurrence of any such Conditional Sale Event of Default and while it is continuing (unless, in the case of a Conditional Sale Event of Default described in subdivision (a) of this Section 17, such Conditional Sale Event of Default shall have been cured as provided in Section 18), and notwithstanding any limitations on the personal liability of the Owner contained in Section 20 or otherwise, the Seller may, upon written notice to the Owner and upon compliance with any legal requirements then in force and applicable to such action by the Seller, (i) cause the term of the Lease immediately upon such notice to terminate (and the Owner acknowledges the right of the Seller to terminate the term of the Lease) but without affecting any indemnities or other agreements of the Lessee which by the provisions of the Lease survive the termination of its term and/or (ii) declare (referred to herein as a "Declaration of Default") the entire unpaid

Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness, and interest thereon, to the extent permitted by applicable law, shall bear interest from the date of such Declaration of Default at the rate for overdue payments specified in Section 4.1. Upon a Declaration of Default, the Seller shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness, with interest as aforesaid, and to collect such judgment out of any property of the Owner, subject to the limitations of Section 20, wherever situated. The Owner agrees to notify the Seller promptly of any event of which any of its officers responsible for the matters concerning this Agreement have knowledge which constitutes a Conditional Sale Default or Event of Default.

The Seller may, at its election, waive any Conditional Sale Event of Default and its consequences and rescind and annul any Declaration of Default or notice of termination of the term of the Lease by notice to the Owner in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if such Conditional Sale Event of Default had not occurred and no Declaration of Default or notice of termination of the term of the Lease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Owner that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

SECTION 18. RIGHT TO CURE CERTAIN LEASE EVENTS OF DEFAULT.

In the event that a Conditional Sale Event of Default has occurred and is continuing solely by reason of the Lessee's failure to pay an installment of Basic Rent (as defined in the Lease) when due, which failure shall not constitute more than the twelfth consecutive failure, or more than the twenty-fourth cumulative failure (and, in the case of the thirteenth or subsequent cumulative failure, if at least twelve consecutive payments of Basic Rent have been made by the Lessee or the Guarantor from its own funds following any such period of twelve consecutive failures), and so long as no other Conditional Sale Event of Default shall have occurred and be continuing, the Seller shall not

exercise any of the rights and powers or pursue any of the remedies pursuant to Section 16 of the Lease and Sections 17 and 19 of this Agreement if the Seller shall have received from the Owner, within five days after the occurrence of such Conditional Sale Event of Default, the full amount of such installment, together with any interest due thereon. Upon any payment of Basic Rent by the Owner in accordance with this Section 18, the Owner shall (to the extent of any such payment made by it) be subrogated to the rights of the Seller to receive such payment of Basic Rent (and the payment of interest on account of its being overdue) and shall be entitled, if the Lessee shall pay such payment of Basic Rent (and interest) to the Seller and at such time no Conditional Sale Event of Default shall have occurred and be continuing (other than an Event of Default cured by the Owner as provided in this Section 18), to receive such payment upon its receipt by the Seller, provided that the Owner may not exercise any rights and powers or pursue any remedies pursuant to Section 16 of the Lease or otherwise which the Seller would have been entitled to exercise or pursue but for the preceding sentence.

SECTION 19. REMEDIES.

19.1 Taking Possession of Units. At any time during the continuance of a Declaration of Default, the Seller may, upon such further notice and action, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Seller, take or cause to be taken, by its agent or agents, immediate possession of any or all of the Equipment, without liability to return to the Owner or the Lessee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 19 expressly provided, and may remove the same from possession and use of the Owner, the Lessee or any other person and for such purpose may enter upon the premises of the Owner or 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 and any available trackage and other facilities or means of the Owner or the Lessee.

19.2 Assembly and Storage. In case the Seller shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points

for the delivery of the Equipment to the Seller, the Owner shall, at its own expense and risk:

(i) forthwith and in the usual manner (including, but not by way of limitation, causing prompt telegraphic and written notice to be given to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) cause any or all such Units to be transported to such location as shall be reasonably designated by the Seller and there assembled;

(ii) furnish and arrange for the Seller to store any or all the Units on any lines of railroad or premises approved by the Seller at the risk of the Owner without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Seller; and

(iii) cause any or all of the Units to be transported to such interchange point or points as shall be designated by the Seller upon any sale, lease, or other disposal thereof.

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

19.3 Remedies Not Exclusive; No Waiver, etc.

Each and every power and remedy hereby specifically given to the Seller shall be in addition to every other power and remedy hereby specifically given to the Seller or now or hereafter existing at law or in equity (including those remedies set forth in Section 6 of the Lease Assignment), and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Seller. All such

powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Seller in the exercise of any such power or remedy and no renewal or extension of any payments due under this Agreement shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment under this Agreement or other indulgence duly granted to the Owner shall not otherwise alter or affect the Seller's rights or the Owner's obligations under this Agreement. The Seller's acceptance of any payment after it shall have become due under this Agreement shall not be deemed to alter or affect the Owner's obligations or the Seller's rights under this Agreement with respect to any subsequent payments or default therein.

19.4 Application of Proceeds. All sums of money realized by the Seller under the remedies provided in this Section 19 or which are otherwise held by the Agent during the continuance of a Declaration of Default shall be applied as set forth in Section 3 of the Lease Assignment.

If, after applying all sums of money realized by the Seller under the remedies provided in this Section 19, there shall remain any amount due to the Seller under the provisions of this Agreement or the Participation Agreement, the Owner shall, subject to the provisions of Section 20, pay the amount of such deficiency to the Seller upon demand, together with interest from the date of such demand to the date of payment, at the rate for overdue payments specified in Section 4.1 and, if the Owner shall fail to pay such deficiency, the Seller may bring suit therefor and shall, subject to Section 20, be entitled to recover a judgment therefor against the Owner. If, after applying as aforesaid all sums realized by the Seller, there shall remain a surplus in the possession of the Seller, such surplus shall be paid to the Owner.

19.5 Costs and Expenses. The Owner will pay all reasonable expenses, including attorneys' fees and legal expenses, incurred by the Seller in connection with the Seller's enforcing its remedies under the terms of this Agreement and such expenses shall constitute additional indebtedness secured hereunder. In the event that the Seller shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Seller may recover reasonable expenses, including reasonable attorneys' fees and legal expenses, and the amount thereof shall be included in such judgment.

19.6 Remedies Subject to Applicable Law. The foregoing provisions of this Section 19 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

SECTION 20. LIMITATION OF OWNER'S LIABILITY.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Sections 17 and 19), the Seller agrees that the liability of the Owner for all payments to be made by it under this Agreement, with the exceptions only of the Down Payment to be made pursuant to Section 4.1(b) and the obligations set forth in the proviso to Section 14, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment and the Original Equipment", which term shall mean (a) if a Conditional Sale Event of Default shall have occurred and be continuing, so much of the following amounts as are held or received by the Seller or the Owner at any time after any such event and during the continuance thereof: (i) all amounts of rent and amounts in respect of Casualty Occurrences paid for or with respect to the Equipment and the Original Equipment pursuant to the Lease and any and all other payments made pursuant to Section 16 of the Lease or any other provision of the Lease and (ii) any and all payments or proceeds made or received pursuant to the Lease or for or with respect to the Equipment and the Original Equipment as the result of the sale, lease or other disposition thereof; and (b) at any other time, only that portion of the amounts referred to in the foregoing clauses (i) and (ii) as are held or received by the Seller or the Owner and as shall be required to discharge the portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall be required to discharge any other payments then due and payable under this Agreement; provided that the term "income and proceeds from the Equipment and the Original Equipment" shall in no event include Excepted Payments (as such term is defined in the Lease Assignment). Notwithstanding anything to the contrary contained in Sections 17 and 19, the Seller agrees and each other holder of any of the Conditional Sale Indebtedness by its acceptance thereof agrees, except with respect to judgments relating to the Down Payment to be made by the Owner pursuant to Section 4.1(b) or relating

to the obligations of the Owner set forth in the proviso to Section 14, that any money judgment taken against the Owner under this Agreement shall, by its terms, provide that the entry and docketing thereof (and the filing of any transcript with respect thereto) shall not constitute or create a lien, or be enforceable, against any real property of the Owner, that the judgment creditors in respect of any such judgment shall not be entitled to any of the rights and remedies provided to a judgment creditor by law to enforce the lien of any such judgment against any real property of the Owner wherever situated, that such judgment shall be enforceable only against the Equipment and the Original Equipment and the income and proceeds from the Equipment and the Original Equipment, and that no such judgment foreclosing any of the rights of the Owner with respect to the Equipment and the Original Equipment and any other property constituting collateral security for the Conditional Sale Indebtedness shall contain any provision for a deficiency judgment in favor of the Seller or any other holder of any of the Conditional Sale Indebtedness except with respect to the Down Payment to be made by the Owner pursuant to Section 4.1(b) or the obligations of the Owner set forth in the proviso to Section 14.

The limitations in this Agreement on the liability of the Owner shall not derogate from (a) the right of the Seller to proceed against the Equipment as provided for herein for the full amount of any unpaid portion of the Aggregate Purchase Price and interest thereon and all other payments and obligations hereunder or to proceed against the Lessee under the Lease or the Consent, (b) the right of the Agent to proceed against the Original Equipment under the Security Agreement or (c) the rights of the Agent and the Lenders as contemplated by Section 12.2 of the Participation Agreement.

SECTION 21. APPLICABLE STATE LAWS; WAIVERS.

Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement, provided that, if the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Owner to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Owner, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more Units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Seller's rights under this Agreement and any and all rights of redemption, and agrees that it will not assert against any assignee of Portec, Inc. pursuant to Section 16.2 any claim or defense which it may now or hereafter have against Portec, Inc.

SECTION 22. FURTHER ASSURANCES; RECORDING.

The Owner will cause to be done, executed, acknowledged and delivered all such further acts, conveyances and assurances as the Seller shall reasonably require for accomplishing the purposes of this Agreement. The Owner will take, or cause to be taken, such action with respect to the recording, filing, re-recording and re-filing of this Agreement or any amendments and supplements to this Agreement, and any financing statements, continuation statements or other instruments as is necessary, or as shall be reasonably required by the Seller or any holder from time to time of any of the Conditional Sale Indebtedness or counsel for the Seller or any such holder to establish, perfect, preserve and protect, so long as any Conditional Sale Indebtedness shall remain outstanding, the security interests created by this Agreement. The Owner will, promptly after any change of name of the Owner or any successor, or any change of location of its principal place of business, the office where it keeps its records concerning the Equipment or any contracts relating thereto or its chief executive office, furnish to the Seller information with respect to any such change.

SECTION 23. NOTICES.

All notices, requests, demands and other communications required or contemplated by the provisions of this Agreement shall, unless otherwise specified, be in writing or by telex or telegraph, and shall be deemed to have been given or made on the fifth Business Day after deposit thereof in the United States mails, certified,

first-class postage prepaid, or when received if sent by telex or telegraph or delivered by hand, addressed as follows:

If to the Seller:

Portec, Inc.
300 Windsor Drive
Oak Brook, Illinois 60521
Attention: D.F. Morris
Vice President

If to the Owner:

Merrill Lynch Leasing Inc.
One Liberty Plaza
165 Broadway
New York, New York 10080
Attention: John C. Murphy
Vice President

or, as to any party or any assignee of any party, to such other address as such party or such assignee may from time to time specify by notice hereunder.

SECTION 24. IMMUNITIES; SATISFACTION OF UNDERTAKINGS.

(a) No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, beneficiary, 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, beneficiaries, stockholders, directors or officers being forever released as a condition of and as consideration for the execution of this Agreement.

(b) The obligations of the Owner under Sections 8, 9.1, 9.2 (except the first and fourth sentences of subdivision (a) to the extent such sentences require delivery of notices and payment schedules), 10, 11, 12, 13, 14 (except the proviso thereto), 15.1, 19.2, 19.4, 19.5 and 22 (except the last sentence) shall be deemed in all respects satisfied by performance by the Lessee of its

undertakings contained in the Lease. The Owner shall not have any responsibility for the Lessee's failure to perform any such obligations, but if the same shall not be performed they shall constitute the basis for a Conditional Sale Event of Default pursuant to Section 17.

SECTION 25. MISCELLANEOUS.

25.1 Waivers; Modifications. No term or provision of this Agreement may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party hereto against which enforcement of the change, waiver, discharge or termination is sought; no such instrument shall be effective (except as to a waiver by any party hereto of one or more closing conditions set forth in Section 6 or by reference in clause (d) of Section 3.1, where waiver by telex or telegram shall be effective) unless a signed copy thereof shall have been delivered to the Owner and the Seller.

25.2 Binding Effect; Successors and Assigns. The terms and provisions of this Agreement and the respective rights and obligations of the parties hereunder shall be binding upon, and inure to the benefit of, their respective successors and (to the extent assignments are permitted by this Agreement and the Participation Agreement) assigns.

25.3 Captions; References. The captions in this Agreement and in the table of contents are for convenience of reference only and shall not define or limit any of the terms or provisions hereof. References herein to sections and subdivisions without reference to the document in which they are contained are references to this Agreement.

25.4 Execution; Original Counterpart. This Agreement may be executed by the parties hereto on separate counterparts and all such counterparts shall together constitute but one and the same instrument. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments attached hereto. To the extent, if any, that this Agreement constitutes chattel paper (as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction), no

security interest in this Agreement may be created through the transfer or possession of any counterpart other than the original counterpart, which shall be identified as the counterpart containing the receipt therefor executed by the Agent on the signature page thereof.

25.5 Governing Law. This Agreement is being made and delivered in, and shall be governed by and construed in accordance with the laws of, the State of New York.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

PORTEC, INC.

[Seal]

Attest:

By

Title:

W F Morris
Senior Vice President

J. Walton
Secretary

MERRILL LYNCH LEASING INC.

[Seal]

Attest:

By

Title:

John C. Murphy
Vice President

Michael A. Graber
and Secretary

ALL RIGHT, TITLE AND INTEREST OF PORTEC, INC. IN AND TO THIS CONDITIONAL SALE AGREEMENT, AS IT MAY FROM TIME TO TIME BE AMENDED, MODIFIED OR SUPPLEMENTED, HAS BEEN ASSIGNED TO AND IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF THE CONNECTICUT BANK AND TRUST COMPANY, AS AGENT. AN ORIGINAL AND SEVERAL COUNTERPARTS OF THIS AGREEMENT HAVE BEEN EXECUTED, BUT, AS SET FORTH IN SECTION 25.4, NO SECURITY INTEREST IN THIS AGREEMENT MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN THE ORIGINAL COUNTERPART, WHICH IS IDENTIFIED AS THE COUNTERPART CONTAINING A RECEIPT THEREFOR EXECUTED BY SUCH AGENT ON THIS PAGE.

SCHEDULE A

Equipment = 4000 Cubic Foot,
100 Ton Covered Hopper Cars

| <u>Number of Units</u> | <u>Seller's Specification</u> | <u>W&W Serial Numbers</u> | <u>Purchase Price</u> | |
|----------------------------|--|--|-----------------------|----------------|
| | | | <u>Per Unit</u> | <u>Total</u> |
| 175 | H-100-780505, dated May 11, 1978 (revised October 30, 1978 (rev. A)) | WW 3051 through WW 3225 (both inclusive) | \$40,387.82 | \$7,067,868.50 |

SCHEDULE B

Payment Schedule of Each \$1,000,000
of Conditional Sale Indebtedness

| <u>Payment Date</u> | <u>Debt Service</u> | <u>Interest Payment</u> | <u>Principal Payment</u> | <u>Ending Principal</u> |
|---------------------|---------------------|-------------------------|--------------------------|-------------------------|
| | | | | \$ 1,000,000.00 |
| 1 | \$ 11,889.76 | \$ 9,166.67 | \$ 2,723.09 | 997,276.91 |
| 2 | 11,889.76 | 9,141.71 | 2,748.05 | 994,528.86 |
| 3 | 11,889.76 | 9,116.51 | 2,773.25 | 991,755.61 |
| 4 | 11,889.76 | 9,091.09 | 2,798.67 | 988,956.94 |
| 5 | 11,889.76 | 9,065.44 | 2,824.32 | 986,132.62 |
| 6 | 11,889.76 | 9,039.55 | 2,850.21 | 983,282.41 |
| 7 | 11,889.76 | 9,013.42 | 2,876.34 | 980,406.07 |
| 8 | 11,889.76 | 8,987.06 | 2,902.70 | 977,503.37 |
| 9 | 11,889.76 | 8,960.45 | 2,929.31 | 974,574.06 |
| 10 | 11,889.76 | 8,933.60 | 2,956.16 | 971,617.90 |
| 11 | 11,889.76 | 8,906.50 | 2,983.26 | 968,634.64 |
| 12 | 11,889.76 | 8,879.15 | 3,010.61 | 965,624.03 |
| 13 | 11,889.76 | 8,851.55 | 3,038.21 | 962,585.82 |
| 14 | 11,889.76 | 8,823.70 | 3,066.06 | 959,519.76 |
| 15 | 11,889.76 | 8,795.60 | 3,094.16 | 956,425.60 |
| 16 | 11,889.76 | 8,767.23 | 3,122.53 | 953,303.07 |
| 17 | 11,889.76 | 8,738.61 | 3,151.15 | 950,151.92 |
| 18 | 11,889.76 | 8,709.73 | 3,180.03 | 946,971.89 |
| 19 | 11,889.76 | 8,680.58 | 3,209.18 | 943,762.71 |
| 20 | 11,889.76 | 8,651.16 | 3,238.60 | 940,524.11 |
| 21 | 11,889.76 | 8,621.47 | 3,268.29 | 937,255.82 |
| 22 | 11,889.76 | 8,591.51 | 3,298.25 | 933,957.57 |
| 23 | 11,889.76 | 8,561.28 | 3,328.48 | 930,629.09 |
| 24 | 11,889.76 | 8,530.77 | 3,358.99 | 927,270.10 |
| 25 | 11,889.76 | 8,499.98 | 3,389.78 | 923,880.32 |
| 26 | 11,889.76 | 8,468.90 | 3,420.86 | 920,459.46 |
| 27 | 11,889.76 | 8,437.55 | 3,452.21 | 917,007.25 |
| 28 | 11,889.76 | 8,405.90 | 3,483.86 | 913,523.39 |
| 29 | 11,889.76 | 8,373.96 | 3,515.80 | 910,007.59 |
| 30 | 11,889.76 | 8,341.74 | 3,548.02 | 906,459.57 |
| 31 | 11,889.76 | 8,309.21 | 3,580.55 | 902,879.02 |
| 32 | 11,889.76 | 8,276.39 | 3,613.37 | 889,265.65 |
| 33 | 11,889.76 | 8,243.27 | 3,646.49 | 895,619.16 |

| <u>Payment Date</u> | <u>Debt Service</u> | <u>Interest Payment</u> | <u>Principal Payment</u> | <u>Ending Principal</u> |
|---------------------|---------------------|-------------------------|--------------------------|-------------------------|
| 34 | \$ 11,889.76 | \$ 8,209.84 | \$ 3,679.92 | \$ 891,939.24 |
| 35 | 11,889.76 | 8,176.11 | 3,713.65 | 888,225.59 |
| 36 | 11,889.76 | 8,142.07 | 3,747.69 | 884,477.90 |
| 37 | 11,889.76 | 8,107.17 | 3,782.05 | 880,695.85 |
| 38 | 11,889.76 | 8,073.05 | 3,816.71 | 876,879.14 |
| 39 | 11,889.76 | 8,038.06 | 3,851.70 | 873,027.44 |
| 40 | 11,889.76 | 8,002.75 | 3,887.01 | 869,140.43 |
| 41 | 11,889.76 | 7,967.12 | 3,922.64 | 865,217.79 |
| 42 | 11,889.76 | 7,931.16 | 3,958.60 | 861,259.19 |
| 43 | 11,889.76 | 7,894.88 | 3,994.88 | 857,264.31 |
| 44 | 11,889.76 | 7,858.26 | 4,031.50 | 853,232.81 |
| 45 | 11,889.76 | 7,821.30 | 4,068.46 | 849,164.35 |
| 46 | 11,889.76 | 7,784.01 | 4,105.75 | 845,058.60 |
| 47 | 11,889.76 | 7,746.37 | 4,143.39 | 840,915.21 |
| 48 | 11,889.76 | 7,708.39 | 4,181.37 | 836,733.84 |
| 49 | 11,889.76 | 7,670.06 | 4,219.70 | 832,514.14 |
| 50 | 11,889.76 | 7,631.38 | 4,258.38 | 828,255.76 |
| 51 | 11,889.76 | 7,592.34 | 4,297.42 | 823,958.34 |
| 52 | 11,889.76 | 7,552.95 | 4,336.81 | 819,621.53 |
| 53 | 11,889.76 | 7,513.20 | 4,376.56 | 815,244.97 |
| 54 | 11,889.76 | 7,473.08 | 4,416.68 | 810,828.29 |
| 55 | 11,889.76 | 7,432.59 | 4,457.17 | 806,371.12 |
| 56 | 11,889.76 | 7,391.74 | 4,498.02 | 801,873.10 |
| 57 | 11,889.76 | 7,350.50 | 4,539.26 | 797,333.84 |
| 58 | 11,889.76 | 7,308.89 | 4,580.87 | 792,752.97 |
| 59 | 11,889.76 | 7,266.90 | 4,622.86 | 788,130.11 |
| 60 | 11,889.76 | 7,224.53 | 4,665.23 | 783,464.88 |
| 61 | 11,889.76 | 7,181.76 | 4,708.00 | 778,756.88 |
| 62 | 11,889.76 | 7,138.60 | 4,751.16 | 774,005.72 |
| 63 | 11,889.76 | 7,095.05 | 4,794.71 | 769,211.01 |
| 64 | 11,889.76 | 7,051.10 | 4,838.66 | 764,372.35 |
| 65 | 11,889.76 | 7,006.75 | 4,883.01 | 759,489.34 |
| 66 | 11,889.76 | 6,961.99 | 4,927.77 | 754,561.57 |
| 67 | 11,889.76 | 6,916.81 | 4,972.95 | 749,588.62 |
| 68 | 11,889.76 | 6,871.23 | 5,018.53 | 744,570.09 |
| 69 | 11,889.76 | 6,825.23 | 5,064.53 | 739,505.56 |
| 70 | 11,889.76 | 6,778.80 | 5,110.96 | 734,394.60 |
| 71 | 11,889.76 | 6,731.95 | 5,157.81 | 729,236.79 |
| 72 | 11,889.76 | 6,684.67 | 5,205.09 | 724,031.70 |
| 73 | 11,889.76 | 6,636.96 | 5,252.80 | 718,778.90 |
| 74 | 11,889.76 | 6,588.81 | 5,300.95 | 713,477.95 |
| 75 | 11,889.76 | 6,540.21 | 5,349.55 | 708,128.40 |
| 76 | 11,889.76 | 6,491.18 | 5,398.58 | 702,729.82 |
| 77 | 11,889.76 | 6,441.69 | 5,448.07 | 697,281.75 |

| <u>Payment Date</u> | <u>Debt Service</u> | <u>Interest Payment</u> | <u>Principal Payment</u> | <u>Ending Principal</u> |
|---------------------|---------------------|-------------------------|--------------------------|-------------------------|
| 78 | \$ 11,889.76 | \$ 6,391.75 | \$ 5,498.01 | \$ 691,783.74 |
| 79 | 11,889.76 | 6,341.35 | 5,548.41 | 686,235.33 |
| 80 | 11,889.76 | 6,290.49 | 5,599.27 | 680,636.06 |
| 81 | 11,889.76 | 6,239.16 | 5,650.60 | 674,985.46 |
| 82 | 11,889.76 | 6,187.37 | 5,702.39 | 669,283.07 |
| 83 | 11,889.76 | 6,135.09 | 5,754.67 | 663,528.40 |
| 84 | 11,889.76 | 6,082.34 | 5,807.42 | 657,720.98 |
| 85 | 11,889.76 | 6,029.11 | 5,860.65 | 651,860.33 |
| 86 | 11,889.76 | 5,975.39 | 5,914.37 | 645,945.96 |
| 87 | 11,889.76 | 5,921.17 | 5,968.59 | 639,977.37 |
| 88 | 11,889.76 | 5,866.46 | 6,023.30 | 633,954.07 |
| 89 | 11,889.76 | 5,811.25 | 6,078.51 | 627,875.56 |
| 90 | 11,889.76 | 5,755.53 | 6,134.23 | 621,741.33 |
| 91 | 11,889.76 | 5,699.30 | 6,190.46 | 615,550.87 |
| 92 | 11,889.76 | 5,642.55 | 6,247.21 | 609,303.66 |
| 93 | 11,889.76 | 5,585.28 | 6,304.48 | 602,999.18 |
| 94 | 11,889.76 | 5,527.49 | 6,362.27 | 596,636.91 |
| 95 | 11,889.76 | 5,469.17 | 6,420.59 | 590,216.32 |
| 96 | 11,889.76 | 5,410.32 | 6,479.44 | 583,736.88 |
| 97 | 11,889.76 | 5,350.92 | 6,538.84 | 577,198.04 |
| 98 | 11,272.64 | 5,290.98 | 5,981.66 | 571,216.38 |
| 99 | 11,272.64 | 5,236.15 | 6,036.49 | 565,179.89 |
| 100 | 11,272.64 | 5,180.82 | 6,091.82 | 559,088.07 |
| 101 | 11,272.64 | 5,124.97 | 6,147.67 | 552,940.40 |
| 102 | 11,272.64 | 5,068.62 | 6,204.02 | 546,736.38 |
| 103 | 11,272.64 | 5,011.75 | 6,260.89 | 540,475.49 |
| 104 | 11,272.64 | 4,954.36 | 6,318.28 | 534,157.21 |
| 105 | 11,272.64 | 4,896.44 | 6,376.20 | 527,781.01 |
| 106 | 11,272.64 | 4,837.99 | 6,434.65 | 521,346.36 |
| 107 | 11,272.64 | 4,779.01 | 6,493.63 | 514,852.73 |
| 108 | 11,272.64 | 4,719.48 | 6,553.16 | 508,299.57 |
| 109 | 11,272.64 | 4,659.41 | 6,613.23 | 501,686.34 |
| 110 | 10,275.57 | 4,598.79 | 5,676.78 | 496,009.56 |
| 111 | 10,275.57 | 4,546.75 | 5,728.82 | 490,280.74 |
| 112 | 10,275.57 | 4,494.24 | 5,781.33 | 484,499.41 |
| 113 | 10,275.57 | 4,441.24 | 5,834.33 | 478,665.08 |
| 114 | 10,275.57 | 4,387.76 | 5,887.81 | 472,777.27 |
| 115 | 10,275.57 | 4,333.79 | 5,941.78 | 466,835.48 |
| 116 | 10,275.57 | 4,279.33 | 5,996.24 | 460,839.25 |
| 117 | 10,275.57 | 4,224.36 | 6,051.21 | 454,788.04 |
| 118 | 10,275.57 | 4,168.89 | 6,106.68 | 448,681.36 |
| 119 | 10,275.57 | 4,112.91 | 6,162.66 | 442,518.70 |
| 120 | 10,275.57 | 4,056.42 | 6,219.15 | 436,299.55 |
| 121 | 10,275.57 | 3,999.41 | 6,276.16 | 430,023.39 |

| <u>Payment Date</u> | | <u>Debt Service</u> | | <u>Interest Payment</u> | | <u>Principal Payment</u> | | <u>Ending Principal</u> |
|-------------------------|----|-------------------------|----|-----------------------------|----|------------------------------|----|-----------------------------|
| 122 | \$ | 9,295.15 | \$ | 3,941.88 | \$ | 5,353.27 | \$ | 424,670.12 |
| 123 | | 9,295.15 | | 3,892.81 | | 5,402.34 | | 419,267.78 |
| 124 | | 9,295.15 | | 3,843.29 | | 5,451.86 | | 413,815.92 |
| 125 | | 9,295.15 | | 3,793.31 | | 5,501.84 | | 408,314.08 |
| 126 | | 9,295.15 | | 3,742.88 | | 5,552.27 | | 402,761.81 |
| 127 | | 9,295.15 | | 3,691.98 | | 5,603.17 | | 397,158.64 |
| 128 | | 9,295.15 | | 3,640.62 | | 5,654.53 | | 391,504.11 |
| 129 | | 9,295.15 | | 3,588.79 | | 5,706.36 | | 385,797.75 |
| 130 | | 9,295.15 | | 3,536.48 | | 5,758.67 | | 380,039.08 |
| 131 | | 9,295.15 | | 3,483.69 | | 5,811.46 | | 374,227.62 |
| 132 | | 9,295.15 | | 3,430.42 | | 5,864.73 | | 368,362.89 |
| 133 | | 9,295.15 | | 3,376.66 | | 5,918.49 | | 362,444.40 |
| 134 | | 8,270.25 | | 3,322.41 | | 4,947.84 | | 357,496.56 |
| 135 | | 8,270.25 | | 3,277.05 | | 4,993.20 | | 352,503.36 |
| 136 | | 8,270.25 | | 3,231.28 | | 5,038.97 | | 347,464.39 |
| 137 | | 8,270.25 | | 3,185.09 | | 5,085.16 | | 342,379.23 |
| 138 | | 8,270.25 | | 3,138.48 | | 5,131.77 | | 337,247.46 |
| 139 | | 8,270.25 | | 3,091.44 | | 5,178.81 | | 332,068.65 |
| 140 | | 8,270.25 | | 3,043.96 | | 5,226.29 | | 326,842.36 |
| 141 | | 8,270.25 | | 2,996.05 | | 5,274.20 | | 321,568.16 |
| 142 | | 8,270.25 | | 2,947.71 | | 5,322.54 | | 316,245.62 |
| 143 | | 8,270.25 | | 2,898.92 | | 5,371.33 | | 310,874.29 |
| 144 | | 8,270.25 | | 2,849.68 | | 5,420.57 | | 305,453.72 |
| 145 | | 8,270.25 | | 2,799.99 | | 5,470.26 | | 299,983.46 |
| 146 | | 7,602.85 | | 2,749.85 | | 4,853.00 | | 295,130.46 |
| 147 | | 7,602.85 | | 2,705.36 | | 4,897.49 | | 290,232.97 |
| 148 | | 7,602.85 | | 2,660.47 | | 4,942.38 | | 285,290.59 |
| 149 | | 7,602.85 | | 2,615.16 | | 4,987.69 | | 280,302.90 |
| 150 | | 7,602.85 | | 2,569.44 | | 5,033.41 | | 275,269.49 |
| 151 | | 7,602.85 | | 2,523.30 | | 5,079.55 | | 270,189.94 |
| 152 | | 7,602.85 | | 2,476.74 | | 5,126.11 | | 265,063.83 |
| 153 | | 7,602.85 | | 2,429.75 | | 5,173.10 | | 259,890.73 |
| 154 | | 7,602.85 | | 2,382.33 | | 5,220.52 | | 254,670.21 |
| 155 | | 7,602.85 | | 2,334.48 | | 5,268.37 | | 249,401.84 |
| 156 | | 7,602.85 | | 2,286.18 | | 5,316.67 | | 244,085.17 |
| 157 | | 7,602.85 | | 2,237.45 | | 5,365.40 | | 238,719.77 |
| 158 | | 7,337.43 | | 2,188.26 | | 5,149.17 | | 233,570.60 |
| 159 | | 7,337.43 | | 2,141.06 | | 5,196.37 | | 228,374.23 |
| 160 | | 7,337.43 | | 2,093.43 | | 5,244.00 | | 223,130.23 |
| 161 | | 7,337.43 | | 2,045.36 | | 5,292.07 | | 217,838.16 |
| 162 | | 7,337.43 | | 1,996.85 | | 5,340.58 | | 212,497.58 |
| 163 | | 7,337.43 | | 1,947.89 | | 5,389.54 | | 207,108.04 |
| 164 | | 7,337.43 | | 1,898.49 | | 5,438.94 | | 201,669.10 |
| 165 | | 7,337.43 | | 1,848.63 | | 5,488.80 | | 196,180.30 |

| <u>Payment Date</u> | <u>Debt Service</u> | <u>Interest Payment</u> | <u>Principal Payment</u> | <u>Ending Principal</u> |
|---------------------|-----------------------|-------------------------|--------------------------|-------------------------|
| 166 | \$ 7,337.43 | \$ 1,798.32 | \$ 5,539.11 | \$ 190,641.19 |
| 167 | 7,337.43 | 1,747.54 | 5,589.89 | 185,051.30 |
| 168 | 7,337.43 | 1,696.30 | 5,641.13 | 179,410.17 |
| 169 | 7,337.43 | 1,644.59 | 5,692.84 | 173,717.33 |
| 170 | 7,055.82 | 1,592.41 | 5,463.41 | 168,253.92 |
| 171 | 7,055.82 | 1,542.33 | 5,513.49 | 162,740.43 |
| 172 | 7,055.82 | 1,491.79 | 5,564.03 | 157,176.40 |
| 173 | 7,055.82 | 1,440.78 | 5,615.04 | 151,561.36 |
| 174 | 7,055.82 | 1,389.31 | 5,666.51 | 145,894.85 |
| 175 | 7,055.82 | 1,337.37 | 5,718.45 | 140,176.40 |
| 176 | 7,055.82 | 1,284.95 | 5,770.87 | 134,405.53 |
| 177 | 7,055.82 | 1,232.05 | 5,823.77 | 128,581.76 |
| 178 | 7,055.82 | 1,178.67 | 5,877.15 | 122,704.61 |
| 179 | 7,055.82 | 1,124.79 | 5,931.03 | 116,773.58 |
| 180 | 7,055.82 | 1,070.42 | 5,985.40 | 110,788.18 |
| 181 | 7,055.82 | 1,015.56 | 6,040.26 | 104,747.92 |
| 182 | 6,757.00 | 960.19 | 5,796.81 | 98,951.11 |
| 183 | 6,757.00 | 907.05 | 5,849.95 | 93,101.16 |
| 184 | 6,757.00 | 853.43 | 5,903.57 | 87,197.59 |
| 185 | 6,757.00 | 799.31 | 5,957.69 | 81,239.90 |
| 186 | 6,757.00 | 744.70 | 6,012.30 | 75,227.60 |
| 187 | 6,757.00 | 689.59 | 6,067.41 | 69,160.19 |
| 188 | 6,757.00 | 633.97 | 6,123.03 | 63,037.16 |
| 189 | 6,757.00 | 577.84 | 6,179.16 | 56,858.00 |
| 190 | 6,757.00 | 521.20 | 6,235.80 | 50,622.20 |
| 191 | 6,757.00 | 464.04 | 6,292.96 | 44,329.24 |
| 192 | 6,757.00 | 406.35 | 6,350.65 | 37,978.59 |
| 193 | 6,757.00 | 348.14 | 6,408.86 | 31,569.73 |
| 194 | 6,488.64 | 289.39 | 6,199.25 | 25,370.48 |
| 195 | 6,488.64 | 232.56 | 6,256.08 | 19,114.40 |
| 196 | 6,488.64 | 175.22 | 6,313.42 | 12,800.98 |
| 197 | 6,488.64 | 117.34 | 6,371.30 | 6,429.68 |
| 198 | 6,488.62 | 58.94 | 6,429.68 | -0- |
| TOTALS | <u>\$2,000,150.42</u> | <u>\$1,000,150.42</u> | <u>\$1,000,000.00</u> | |