

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 11078 Filed 1425

NOV 21 1979 - 2 02 PM

RECORDATION NO. 11078-B Filed 1425

NOV 21 1979 - 6 17 AM

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NOV 21 1979  
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RECORDATION NO. 11078-A Filed 1425

NOV 21 1979 - 2 02 PM  
INTERSTATE COMMERCE COMMISSION

9-325A092

No. NOV 21 1979

Date Fee \$ 100.00

ICC Washington, D. C.

November 19, 1979

American Grain and Related Industries  
(A Farmer-Owned Cooperative)  
Lease Financing Dated as of November 1, 1979  
10.35% Conditional Sale Indebtedness Due 1991

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303(a) and the Commission's rules and regulations thereunder, enclosed for filing and recordation on behalf of American Grain and Related Industries (a Farmer-Owned Cooperative) are counterparts of the following documents:

1. (a) Conditional Sale Agreement dated as of November 1, 1979, among Pullman Incorporated (Pullman Standard Division), North American Car Corporation and Exchange National Bank of Chicago, as Trustee;

(b) Agreement and Assignment dated as of November 1, 1979, among Pullman Incorporated (Pullman Standard Division), North American Car Corporation and La Salle National Bank, as Agent;

2. (a) Lease of Railroad Equipment dated as of November 1, 1979, between American Grain and Related Industries (a Farmer-Owned Cooperative) and Exchange National Bank of Chicago, as Trustee; and

(b) Assignment of Lease and Agreement dated as of November 1, 1979, between Exchange National Bank of Chicago, as Trustee, and La Salle National Bank, as Agent.

*Handwritten signature/initials*

The names and addresses of the parties to the  
aforementioned Agreements are as follows:

(1) Agent-Vendor:

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

(2) Trustee:

Exchange National Bank of Chicago  
130 South LaSalle Street  
Chicago, Illinois 60690

(3) Builder:

Pullman Incorporated (Pullman Standard Division)  
200 South Michigan Avenue  
Chicago, Illinois 60604

(4) Vendor:

North American Car Corporation  
222 South Riverside Plaza  
Chicago, Illinois 60606

(5) Lessee:

American Grain and Related Industries  
(A Farmer-Owned Cooperative)  
712 Financial Center  
Des Moines, Iowa 50309

Please file and record the documents referred to  
above and cross-index them under the names of the Agent-  
Vendor, the Trustee, the Builder, the Vendor and the Lessee.

The equipment covered by the aforementioned docu-  
ments consists of the following:

125 4,750 cubic foot covered hopper cars, AAR  
Mechanical Designation LO, bearing identifying  
numbers NAHX 481525 through NAHX 481649, both inclusive.

Also enclosed is a check for \$100 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document) and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents, retain one copy of the documents for your files and forward the remaining counterparts to me.

Thank you for your assistance.

Sincerely,



Jacqueline B. Goodyear  
As Agent for American Grain and  
Related Industries (A Farmer-  
Owned Cooperative)

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

Encls.

64A

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

**OFFICE OF THE SECRETARY**

Jacqueline L. Goolyear  
Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, N. Y. 10005

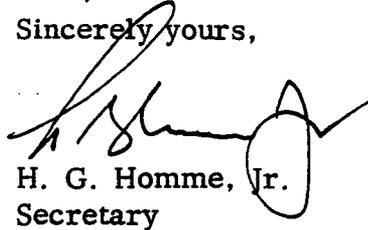
Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C.

11303, on 11/21/79 at 2:05PM, and assigned recordation number(s).

11078, 11078A, 11078B, & 11078C.

Sincerely yours,



H. G. Homme, Jr.  
Secretary

Enclosure(s)

SE-30  
(3/79)

RECORDATION NO. 11078 Filed 1425

NOV 21 1979 - 2 02 PM

INTERSTATE COMMERCE COMMISSION

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[CS&M Ref. 4876-018]

CONDITIONAL SALE AGREEMENT

Dated as of November 1, 1979

among

PULLMAN INCORPORATED  
(PULLMAN STANDARD DIVISION),

NORTH AMERICAN CAR CORPORATION

and

EXCHANGE NATIONAL BANK OF CHICAGO,  
not in its individual capacity but solely  
as Trustee under a Trust Agreement  
dated as of the date hereof with  
Southeast First Leasing, Inc.

10.35% Conditional Sale Indebtedness Due 1991

[Covering 125 4,750 cubic foot Covered Hopper Cars]

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## CONDITIONAL SALE AGREEMENT

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CONDITIONAL SALE AGREEMENT dated as of November 1, 1979, among PULLMAN INCORPORATED (PULLMAN STANDARD DIVISION), a Delaware corporation ("Builder"), NORTH AMERICAN CAR CORPORATION, a Delaware corporation ("NAC" or the "Vendor" as more particularly set forth in Article 1 hereof), and EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association, acting not in its individual capacity but solely as trustee ("Trustee") under a trust agreement dated as of the date hereof ("Trust Agreement") with Southeast First Leasing, Inc. ("Owner").

The Builder agrees to construct, sell and deliver to NAC the railroad equipment described in Annex B hereto ("Equipment") and NAC agrees to purchase the Equipment from the Builder and conditionally sell the Equipment to the Trustee.

The Trustee is entering into a Lease of Railroad Equipment with AMERICAN GRAIN AND RELATED INDUSTRIES (A FARMER-OWNED COOPERATIVE) ("Lessee"), substantially in the form of Annex C hereto ("Lease").

La Salle National Bank ("Agent") is acting as agent for BANKERS LIFE COMPANY ("Original Investor" and, together with any assigns, "Investors") pursuant to the Participation Agreement dated as of the date hereof ("Participation Agreement"), among the Lessee, the Agent, the Owner, the Trustee and the Original Investor.

In consideration of the agreements hereinafter set forth, the parties hereto hereby agree as follows:

ARTICLE 1. Assignment; Definitions. The parties hereto contemplate that the Trustee will furnish 30.138% of the Trustee's Purchase Price (as defined in Article 4 hereof) of the Equipment and that an amount equal to the balance of such Trustee's Purchase Price shall be paid to NAC by the Agent pursuant to an Agreement and Assignment dated as of the date hereof among the Builder, NAC and the Agent ("CSA Assignment"). The parties hereto further contemplate that NAC shall pay to the Builder NAC's Purchase Price (as hereinafter defined) pursuant to the terms of Article 4 hereof.

The term "Vendor", whenever used in this Agree-

ment, means NAC before any assignment of its rights hereunder, and, after any such assignment, both any assignee as regards any assigned rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. The term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

As security for the payment and performance of all the Trustee's obligations hereunder, the Trustee will assign to the Agent certain of the right, title, and interest of the Trustee in and to the Lease pursuant to an Assignment of Lease and Agreement substantially in the form of Annex D hereto ("Lease Assignment"), and the Lessee shall consent thereto pursuant to a Consent and Agreement substantially in the form attached to Annex D ("Consent").

All contractual arrangements between the Builder and NAC insofar as they relate to the Equipment ("Purchase Order") shall be superseded by this Agreement, and the obligations of the Trustee to purchase and pay for the units of Equipment shall be exclusively and completely governed by and subject to the conditions provided herein and in the Participation Agreement.

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Annex B hereto and will sell and deliver the Equipment to NAC. NAC will purchase the Equipment from the Builder and accept delivery thereof and sell and deliver the Equipment to the Trustee. Each unit of Equipment shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing among the Builder, the Trustee and the Lessee (such specifications and any modifications called "Specifications"). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, and each such unit will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. NAC hereby directs the Builder to deliver the units of Equipment to the Trustee at the place or places specified in Annex B hereto, freight charges, if any, prepaid and included in NAC's Purchase Price, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, no delivery of any unit of the Equipment shall be made to the Trustee (i) until this Agreement, the Lease, the CSA Assignment and the Lease Assignment have been filed pursuant to 49 U.S.C. § 11303; (ii) subsequent to the commencement of any proceedings or occurrence of any event specified in clause (c) or (d) of Article 15 hereof or the occurrence of any event of default (as described in Article 15 hereof), or event which with notice or the lapse of time or both would constitute such an event of default (any such event called a "Default"); or (iii) if the Trustee's Purchase Price for such unit when added to the aggregate Trustee's Purchase Price of (A) all units theretofore delivered to and accepted by the Trustee under and made subject to this Agreement and (B) all other units proposed to be delivered to and accepted by the Trustee under, and made subject to, this Agreement concurrently with such unit would exceed the Maximum Trustee's Purchase Price for the Equipment specified in Item 4 of Annex A hereto. The Builder agrees not to deliver any unit of the Equipment hereunder (a) following receipt of written notice from the Trustee or the Agent (i) of a Default, or (ii) that the Maximum Trustee's Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as the Trustee, the Builder, NAC and the Lessee may have agreed to pursuant to Article 4) would be exceeded by any subsequent delivery of a unit, or (iii) of its determination that there has been a material adverse change in the business prospects or financial condition of the Lessee since the date of the most recent financial statements referred to in Paragraph 3(1) of the Participation Agreement or (b) until it receives notice from the Agent and the Trustee that the conditions contained in Paragraphs 7 and 8 of the Participation Agreement have been met.

Any unit of Equipment not delivered to the Trustee hereunder at the time of receipt by the Builder or NAC of the notice specified in clause (a) in the preceding paragraph and any unit of Equipment not delivered and accepted hereunder on or prior to December 31, 1979 (unless a later date shall be agreed to by the Trustee and the Lessee), shall be excluded from this Agreement and NAC and the Trustee shall be relieved of their respective obligations hereunder to purchase and pay for such unit of Equipment. In such event, the Trustee, NAC and the Builder (and any assignee of

NAC) shall execute an agreement supplemental hereto limiting this Agreement to the units of Equipment not so excluded herefrom. Pursuant to the Participation Agreement, NAC has agreed to purchase such excluded Equipment and any Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof from the Builder in accordance with the Purchase Order, all as provided in Paragraph 1 of the Participation Agreement. The Trustee agrees, upon any such exclusion, to take such steps, including the execution of instruments of transfer, as may be reasonably requested by NAC for the purpose of acknowledging and perfecting the interest of NAC in any unit of Equipment so excluded from this Agreement, and the Trustee shall have no further obligation or liability in respect of units so excluded.

The respective obligations of the Builder and NAC as to the time of delivery set forth in Annex B are subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot 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. NAC's obligation hereunder to deliver the Equipment to the Trustee is subject to the delivery of such Equipment by the Builder to NAC.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Trustee (who may be employees of the Lessee) and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Prior to delivery to NAC and to the Trustee each unit of the Equipment shall be presented to an inspector for NAC and the Trustee for inspection at the place specified for delivery or at the Builder's plant specified in Annex B hereto, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector (who may be an employee of the Lessee), shall execute and deliver to the Builder and NAC a certificate of acceptance ("Certificate of Acceptance") substantially in the form of Schedule 3 to the Lease, stating that each such unit has been inspected and accepted on behalf of NAC and the Trustee and is marked in accordance with Article 9 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred

to in Article 13 hereof. The Trustee and NAC hereby appoint the Lessee (and any employee or agent thereof designated by the Lessee) their respective agent for inspection and acceptance of the Equipment pursuant to this Article 3.

On delivery to and acceptance by the Trustee of the Equipment at the place specified for delivery, the Builder and NAC shall have no further responsibility for nor bear any risk of any damage to or the destruction or loss of the Equipment; provided, however, that delivery to and acceptance by either NAC or the Trustee shall not thereby relieve the Builder of its warranty referred to in Article 13 hereof and provided, further, that the delivery to and acceptance by or on behalf of the Trustee of any unit of Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof shall not create in or transfer to the Trustee any legal or beneficial right or interest in such unit or (except as provided in the first paragraph of Article 4 hereof) to impose on the Trustee any liability, obligation or responsibility with respect thereto; any right or interest in any such unit created in or transferred to or purported to be created in or transferred to the Trustee shall be held by the Trustee solely as trustee for the benefit of NAC.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment to be paid by the Trustee to NAC are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease only as is agreed to in writing by NAC, the Trustee and the Lessee. The term "Trustee's Purchase Price" as used herein shall mean the base price or prices per unit as so increased or decreased as set forth in NAC's invoice or invoices delivered to the Trustee ("NAC's Invoice") and, if the Trustee's Purchase Price is other than the base price or prices set forth in Annex B, NAC's Invoice shall be accompanied by or have endorsed thereon the agreement or approval of the Lessee and the Trustee. The base price or prices per unit of the Equipment to be paid by NAC to the Builder are as set forth in the Purchase Order. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder and NAC. The term "NAC's Purchase Price" as used herein shall mean the base price or prices per unit as so increased or decreased as set forth in the Builder's invoice or invoices delivered to NAC ("Builder's Invoice") and, if NAC's Purchase Price is other than the base price or prices set forth in the Purchase Order, the Builder's Invoice shall be accompanied by or have endorsed thereon the agreement or approval of NAC. If on the Closing Date (as hereinafter defined in this

Article) the aggregate Trustee's Purchase Price of Equipment for which settlement is then being made under this Agreement would, but for the provisions of this sentence, exceed the Maximum Trustee's Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as the Trustee may at its option agree to prior to delivery of any unit or units of Equipment that, but for such agreement, would be excluded from this Agreement), the Builder, NAC (and any assignee of NAC) and the Trustee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Trustee, as will, after giving effect to such exclusion, reduce such aggregate Trustee's Purchase Price under this Agreement to not more than the Maximum Trustee's Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as aforesaid) and the Trustee shall have no further obligation or liability with respect to such excluded units under this Agreement.

The Equipment shall be settled for in one group of units delivered to and accepted by each of NAC and the Trustee. The term "Closing Date" shall mean such business day not later than December 31, 1979 ("Cut-Off Date"), occurring not more than 10 business days following presentation by the Builder to NAC of the Builder's Invoice, and by NAC to the Trustee of NAC's Invoice (with copies to the Lessee) and by the Builder and NAC to NAC and the Trustee of the Certificate or Certificates of Acceptance for the units to be settled for as shall be fixed by the Lessee by notice delivered to NAC, the Trustee and the Agent at least four days prior to the Closing Date designated therein.

The Trustee hereby acknowledges itself to be indebted, subject to the terms and conditions of this Agreement, to the Vendor in the amount of the Trustee's Purchase Price of the Equipment, and hereby promises to pay the same in cash to the Vendor at such place as the Vendor may designate, as follows:

(a) on the Closing Date with respect to the units to be settled for an amount equal to (i) 30.138% of the aggregate Trustee's Purchase Price of such units, plus (ii), to the extent the Trustee shall have agreed, any amount by which the aggregate Trustee's Purchase Price exceeds the Maximum Trustee's Purchase Price; and

(b) in 144 monthly installments, as hereinafter provided, an amount equal to the aggregate Trustee's Purchase Price of such units, less the aggregate amount

paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

NAC hereby acknowledges itself to be indebted to the Builder in the amount of NAC's Purchase Price, and hereby promises to pay the same in full in cash to the Builder, on the Closing Date with respect to the units to be settled for, at such place as the Builder may designate; provided, however, that NAC shall have no obligation to accept delivery of and to pay for the Equipment under this Agreement unless it shall have received on the Closing Date payments from the Trustee in an amount equal to 30.138% of the aggregate Trustee's Purchase Price.

The portion of the Trustee's Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph ("CSA Indebtedness") shall be payable monthly on the day of the month corresponding to the Closing Date in each of the 144 months immediately following the Closing Date (each such date called a "Payment Date"). The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such CSA Indebtedness was incurred at the rate of 10.35% per annum. The installments of principal and the interest payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto. NAC will furnish to the Vendor and the Lessee promptly after the Delivery Date a schedule showing the respective amounts of principal and interest payable on each Payment Date, in such number of counterparts as shall be requested by the Vendor.

Interest under this Agreement shall be determined on the basis of a 360-day year of 12 30-day months.

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

The Trustee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the

same shall have become due and payable pursuant to the terms hereof at the rate of 11.35% per annum.

All payments provided for in this Agreement shall be made in such coin or currency of the United States as at the time of payment shall be legal tender for the payment of public and private debts, and shall be made by wire transfer of Federal or other immediately available funds not later than 11:00 a.m., local time, in the city where payable. Except as provided in Article 7 hereof, the Trustee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 15 and 16 hereof), but not limiting the effect of Article 21 hereof, the liability of the Trustee or any assignee of the Trustee for all payments to be made by it under and pursuant to this Agreement, including any liability arising out of or in connection with the performance of its obligations hereunder (excluding only the obligations set forth in subparagraph (a) of the third paragraph of this Article 4 and the proviso in the third paragraph of Article 12 hereof) shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Trustee only to the extent that the Trustee or any assignee of the Trustee shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. Except as provided in the next preceding sentence, the Trustee shall have no personal liability to make any payments under this Agreement except from the "income and proceeds from the Equipment". In addition, the Trustee (i) makes no representation or warranty, and is not responsible for, the execution, validity, sufficiency or enforceability of the Lease insofar as it relates to the Lessee (or any document relative thereto) or of any of the Lessee's obligations thereunder and (ii) shall not be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease or the Consent; it being understood that as to all such matters the Vendor and the Builder will look solely to the rights of the Vendor and the Builder under this Agreement against the Equipment and to the Vendor's rights under the Lease against the Lessee and the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified

in Article 15 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Trustee or any assignee of the Trustee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as defined in § 7 of the Lease) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 10 or any other provision of the Lease and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Trustee or any assignee of the Trustee and as shall equal the portion of the CSA 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 equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include (x) amounts referred to in the foregoing clauses (a) and (b) received by the Trustee or any assignee of the Trustee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Trustee or any assignee of the Trustee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease or (y) payments by the Lessee to the Owner pursuant to the Indemnity Agreement (as defined in the Participation Agreement). Notwithstanding anything to the contrary contained in Article 15 or 16 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Trustee for an amount in excess of the amounts payable by the Trustee pursuant to the limitations set forth in this paragraph, it will limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph. Nothing contained herein limiting the liability of the Trustee shall derogate from the right of the Vendor to proceed against the Equipment or the Trustee's interest in the Lease for the full unpaid Trustee's Purchase Price of the Equipment and accrued interest thereon and all other payments and obligations hereunder.

ARTICLE 5. Security Interest in Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Trustee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Trustee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Trustee and the Lessee as provided in this Agreement and the Lease.

Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Trustee's Purchase Price of the Equipment, together with accrued interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Trustee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Trustee at that time, will, at the Trustee's expense, (a) execute a bill or bills of sale for the Equipment releasing its security interest therein to the Trustee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Trustee at its address referred to in Article 20 hereof, (b) execute and deliver at the same place, for filing 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 title of the Trustee to the Equipment and (c) pay to the Trustee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Trustee 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 such bill or bills of sale or instrument or instruments or to file any 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 Trustee.

ARTICLE 6. Taxes. All payments to be made by the Trustee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, Federal or foreign taxes (other than gross receipts taxes

[except gross receipts taxes in the nature of or in lieu of sales or use or rental taxes], taxes measured by net income, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties called "impositions"), all of which such impositions the Trustee assumes and agrees to pay on demand in addition to the Trustee's Purchase Price of the Equipment. The Trustee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Vendor by reason of its ownership thereof (except as provided above) 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 Vendor or result in a lien upon any part of the Equipment; provided, however, that the Trustee shall be under no obligation to pay any impositions of any kind so long as it or the Lessee is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest or property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Trustee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Trustee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Trustee shall have approved in writing the payment thereof.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Trustee agrees that, at Trustee's own cost and expense, it will be responsible for ordinary maintenance and repairs required to maintain and keep all of the units of Equipment which are subject to this Agreement in good operating order, repair and condition and eligible for interchange service.

In the event that any unit of Equipment shall

suffer a Casualty Occurrence (as defined in § 7 of the Lease), the Trustee shall, promptly after it shall have been informed that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the Casualty Payment Date (as defined in § 7 of the Lease), the Trustee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of such Casualty Payment Date, and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of the interest and principal of CSA Indebtedness due on such date) to prepay the CSA Indebtedness, without penalty or premium, ratably in accordance with the unpaid balance of each installment. The Trustee will promptly furnish to the Vendor a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendor may request. In the event of the requisition for use by the United States Government or any political subdivision thereof of any unit of the Equipment which is not a Casualty Occurrence, all of the Trustee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

Upon payment by the Trustee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Trustee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Trustee, will execute and deliver to the Trustee, at the expense of the Trustee, an appropriate instrument confirming such passage to the Trustee of all the Vendor's right, title and interest, and the release of the Vendor's security interest, in such unit, in recordable form, in order that the Trustee may make clear upon the public records the title of the Trustee to such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Trustee's Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph,

each payment of the Trustee's Purchase Price in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original Trustee's Purchase Price of such unit bears to the aggregate original Trustee's Purchase Price of the Equipment.

If the Vendor shall receive from the Lessee's insurance coverage any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence, the Vendor shall, subject to the Vendor having received payment of the Casualty Value hereunder, pay such insurance proceeds or condemnation payments to the Trustee. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of the Equipment not suffering a Casualty Occurrence shall be paid to the Trustee upon reasonable proof satisfactory to the Vendor that the damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. Reports and Inspections. On or before April 30 in each year, commencing with the year 1981, the Trustee shall cause to be furnished to the Vendor an accurate statement to the effect set forth in § 8 of the Lease. The Vendor shall have the right, by its agents, to inspect the Equipment and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 9. Marking of Equipment. The Trustee will cause each unit of the Equipment to be kept numbered and marked as provided in § 5 of the Lease. The Trustee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor which previously shall have been filed with the Vendor and filed by the Trustee in all public offices where this Agreement shall have been filed. Except as aforesaid, the Trustee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

ARTICLE 10. Compliance with Laws. During the term of this Agreement, the Trustee will comply, and will cause

every lessee or user of the Equipment to comply, in all respects (including without limitation the use, maintenance and operation of the Equipment) with all Applicable Laws (as defined in § 9 of the Lease), and in the event that the Applicable Laws require any alteration, replacement or modification of or to any part on any unit of Equipment, the Trustee will conform therewith at its own expense; provided, however, that the Trustee or the Lessee may, in good faith, contest the validity or application of any such Applicable Law in any reasonable manner which does not, in the reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 11. Possession and Use. So long as an event of default shall not have occurred and be continuing under this Agreement, the Trustee shall be entitled to the possession of the Equipment and the use thereof from and after delivery of the Equipment by NAC to the Trustee, but only upon and subject to all the terms and conditions of this Agreement.

The Trustee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor, it being understood and agreed that such consent shall not be unreasonably withheld for changes in the provisions of the Lease which are not necessary to satisfy the obligations of the Trustee under the CSA.

ARTICLE 12. Prohibition Against Liens. The Trustee will pay or discharge any and all sums claimed by any party from, through or under the Trustee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the Trustee's interests in the Lease and the payments to be made thereunder, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in

or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of such liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

The foregoing provisions of this Article 12 shall be subject to the limitations set forth in the last paragraph of Article 4 hereof and the provisions of Article 21 hereof; provided, however, that the Trustee will pay or discharge any and all claims, liens, charges or security interests claimed by any party from, through or under the Trustee and its successors and assigns and, to the extent it receives funds sufficient for such purpose from the Owner, from, through or under the Owner and its successors and assigns not arising out of the transactions contemplated hereby or in other documents mentioned herein (but, to the extent that it receives funds sufficient for such purpose from the Owner, including tax liens arising out of the receipt of the rentals and other payments under the Lease and any other proceeds from the Equipment), which, if unpaid, might become a lien, charge or security interest on or with respect to any unit of Equipment or the Trustee's or the Owner's interests in the Lease and the payments to be made thereunder, but the Trustee shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement or in and to the Lease and the payments to be made thereunder.

ARTICLE 13. Indemnities and Warranties. The Trustee agrees to indemnify, protect and hold harmless the Vendor and its successors and assigns ("Indemnified Persons") from and against all Indemnified Matters (as defined in § 9 of the Lease), except that the Trustee shall not be liable to the Builder (in the event that the Builder becomes an assignee of the Vendor) in respect of any Indemnified Matter to the extent liability in respect thereof arises out of any tort, breach of warranty or failure to perform any covenant hereunder by the Builder. The Trustee shall be obligated under

this Article 13, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Trustee under this Article 13 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Trustee may and, upon such Indemnified Person's request, will, at the Trustee's expense, resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Trustee and approved by such Indemnified Person and, in the event of any failure by the Trustee to do so, the Trustee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Trustee is required to make any payment under this Article 13, the Trustee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Vendor and the Trustee agree to give each other written notice of any claim or liability hereby indemnified against promptly upon obtaining knowledge thereof. Upon the payment in full by the Trustee of any indemnity as contained in this Article 13, and provided that no event of default described in Article 15(a) hereof or other event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing, the Trustee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of the Indemnified Matter. Any payments received by such Indemnified Person from the Lessee as a result of any Indemnified Matter shall be paid over to the Trustee to the extent necessary to reimburse the Trustee for indemnification payments previously made by the Trustee in respect of such Indemnified Matter.

The indemnities contained in this Article 13 shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of and

shall be enforceable by any Indemnified Person. None of the indemnities in this Article 13 shall be deemed to create any rights of subrogation in any insurer or third party against the Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The Trustee will bear the responsibility for and risk of any damage to or destruction or loss of any unit of Equipment and shall not be released from its obligations hereunder in any such event.

The agreements of the parties relating to the Builder's warranty of material and workmanship and to patent indemnification are set forth in Item 3 of Annex A hereto. NAC does not make, has not made and shall not be deemed to make or have made any warranty or representation, either express or implied, as to the design or condition of the Equipment or as to the quality of the material, equipment or workmanship in the Equipment delivered to the Trustee hereunder, and NAC does not make any warranty of merchantability or fitness of such units for any particular purpose, nor any other representation or warranty, express or implied, with respect to any unit (except as provided in this Article 13), either upon delivery thereof to the Trustee or otherwise.

The Builder represents and warrants to NAC and the Trustee and their respective successors and assigns that at the time of delivery and acceptance of each unit of the Equipment under this Agreement, NAC will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

The Builder represents that it is not entering into this Agreement or into any other transaction contemplated by the Participation Agreement directly or indirectly in connection with any arrangement or understanding by it in any way involving any employee benefit plan (other than a governmental plan) with respect to which it or, insofar as is known to it, any party to the Participation Agreement is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

NAC represents and warrants to the Trustee that at the time of delivery and acceptance of each unit of Equip-

ment under this Agreement, the Trustee will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

NAC represents that it is not entering into this Agreement or into any other transaction contemplated by the Participation Agreement directly or indirectly in connection with any arrangement or understanding by it in any way involving any employee benefit plan (other than a governmental plan) with respect to which it or, insofar as is known to it, any party to the Participation Agreement is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

Each of NAC and the Builder hereby represents and warrants to NAC and the Trustee, and their respective successors and assigns, that this Agreement is duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the other parties hereto, this Agreement is, insofar as it is concerned, a legal, valid and existing agreement binding upon and enforceable against it in accordance with its terms.

ARTICLE 14. Assignments. The Trustee will not transfer the right to possession of any unit of the Equipment (except to the Lessee pursuant to the Lease) or sell, assign, transfer or otherwise dispose of its rights under this Agreement.

All or any of the rights of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Trustee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to or relieve the Builder or NAC from any of the obligations of the Builder to construct and deliver the Equipment to NAC or of NAC to deliver the Equipment to the Trustee in accordance herewith or to respond to their respective warranties and indemnities referred to in Article 13 hereof, or relieve the Trustee of its obligations to NAC or NAC of its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment of the Vendor's rights, the assignor shall give written notice to the Trustee and to the Lessee, together with a copy of such assignment, 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 reservation as may be contained in such assignment. From and after the receipt by the Trustee of the notification of any such assignment, all payments thereafter to be made by the Trustee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Trustee recognizes that this Agreement will be assigned to the Agent as provided in the CSA Assignment. The Trustee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Agent to the entire unpaid CSA Indebtedness in respect of the Trustee's Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of NAC or the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof or with respect to any indemnity herein contained or arising by reason of any other indebtedness or liability at any time owing to the Trustee or the Lessee by NAC or the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Trustee against and only against NAC or the Builder, as the case may be.

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing:

(a) the Trustee shall fail to pay in full any sum payable by the Trustee when payment thereof shall be due hereunder (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Trustee) and such default shall continue for 15 days after written notice from the Vendor specifying the default and demanding that the same be remedied; or

(b) the Trustee (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Trustee) or the Lessee shall, for more than 45 days after the Vendor 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 any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a petition for reorganization under Title 11 of the United States Code, as now or hereafter constituted, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Lease and the Consent shall not have been and shall not continue to be duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed; or

(d) any proceeding shall be commenced by or against the Trustee (not in its individual capacity but in its capacity as Trustee hereunder), the Owner or the Lessee for any relief which includes or might result in any modification of the obligations of the Trustee hereunder, the Owner under the Trust Agreement or the Lessee under the Lease under any bankruptcy or insolvency laws or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations), 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 such obligations shall not have been and shall not continue to be duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to

ratification) for the Trustee, the Owner or the Lessee, as the case may be, or for its or their property in connection with any such proceedings in such manner that such obligations have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

(e) the Trustee shall make or permit any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment and the Trustee shall, for more than 30 days after demand in writing by the Vendor, fail to secure a reassignment or retransfer to the Trustee of such Agreement, interest or right; or

(f) any Event of Default under the Lease other than an event referred to in § 10(A) or 10(D) of the Lease shall have occurred and be continuing;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Trustee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) cause the Lease immediately upon such notice to terminate (and the Trustee acknowledges the right of the Vendor to terminate the Lease), but without affecting the indemnities which by the provisions of the Lease survive its termination and/or (ii) declare ("Declaration of Default") the entire unpaid CSA 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 shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Trustee, subject to the provisions of Articles 4 and 21 hereof, wherever situated. The Trustee shall promptly notify the Vendor of any event of which the Trustee has actual knowledge which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Trustee and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Trustee 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.

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, upon such further notice, 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 Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Trustee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Trustee or any other person and for such purpose may enter upon the premises of the Trustee 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 Trustee, subject to all mandatory requirements of due process of law.

In case the Vendor 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 Vendor, the Trustee shall, at its own expense and risk:

(a) forthwith and in the usual manner cause the Equipment to be placed upon such storage tracks as the Vendor reasonably may designate;

(b) cause such units to be stored on such tracks without charge for insurance, rent or storage until all such units of Equipment have been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the Equipment to be transported to any reasonable place as directed by the Vendor.

During any storage period, the Trustee 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 Vendor, the Vendor'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 competent jurisdiction, the Vendor shall be entitled to a decree against the Trustee requiring specific performance hereof. The Trustee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire CSA Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Trustee and the Lessee by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Trustee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee or for its account may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Trustee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Trustee; provided, further, that if the Trustee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain

the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Trustee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Trustee, the Lessee or any other party claiming from, through or under the Trustee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Trustee should tender full payment of the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Trustee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Trustee or the Lessee may bid for and become the purchaser of the

Equipment, or any unit thereof, so offered for sale. The Trustee and the Lessee shall be given written notice of such sale or the making of a contract for such sale not less than 10 days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Trustee to purchase or provide a purchaser, within 10 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Trustee or the Lessee (except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, 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 Vendor. 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 Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder 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 hereunder or other indulgence duly granted to the Trustee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Trustee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendor's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Trustee shall pay the amount of such deficiency

to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, and, if the Trustee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof and the last paragraph of Article 21 hereof, be entitled to recover a judgment therefor against the Trustee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Trustee.

The Trustee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable Federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Trustee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement, except such portion as relates to the sale of the Equipment by the Builder to NAC, shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Trustee, 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 Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 18. Filing. The Trustee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed in accordance with 49 U.S.C. § 11303; and the Trustee will from time to time do and perform any other act and will execute, acknowledge, deliver and file any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Trustee will promptly furnish to the Vendor certificates or other evidence of such filing satisfactory to the Vendor.

ARTICLE 19. Article Headings; Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Except for the Participation Agreement and the Exhibits thereto, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Builder, the Vendor and the Trustee with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor, the Trustee and, if such variation or modification shall adversely affect its interests hereunder, the Builder.

ARTICLE 20. Notices. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at the following addresses:

(a) to the Lessee, at P. O. Box 4887, Des Moines, Iowa 50306, attention of R. Patrick Kevlin,

(b) to the Trustee, at 130 South LaSalle Street, Chicago, Illinois 60690, attention of Corporate Trust Department,

(c) to the Agent, at 135 South LaSalle Street, Chicago, Illinois 60690, attention of Corporate Trust Department,

(d) to the Builder, at the address specified in Item 1 of Annex A hereto,

(e) to NAC, at 222 South Riverside Plaza, Chicago, Illinois 60606, attention of Vice President-Law,

(f) to any assignee of the Vendor or of the Trustee, at such address as may have been furnished in writing to the Trustee or the Vendor, as the case may be, and to the Lessee, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 21. Immunities; Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Trustee under the second paragraph of Article 16 and under Articles 3, 6, 7 (other than the second and third sentences of the second paragraph thereof), 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Trustee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

Each of the representations, warranties and agreements herein made on the part of the financial institution acting as Trustee hereunder are made and intended not as personal representations, warranties and agreements by said institution or for the purpose or with the intention of binding said institution personally but are made and intended

for the purpose of binding only the Trust Estate (as such term is used in the Trust Agreement) and this Agreement is executed and delivered by said institution solely in the exercise of the powers expressly conferred upon said institution as trustee under the Trust Agreement; and (except in the case of wilful misconduct or gross negligence) no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said institution or the Owner (except, with respect to each such party, in connection with the payment or discharge of claims, liens, charges or security interests claimed from, through or under such party or its successors and assigns pursuant to the proviso to the last paragraph of Article 12 of this Agreement and except, with respect to the Owner, pursuant to Section 1.03 and the last paragraph of Section 5.01 of the Trust Agreement) on account of any representation, warranty or agreement herein of said institution or the Owner hereunder, either expressed or implied, all such personal liability (except as aforesaid), if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any party claiming by, through or under the Vendor making claim hereunder may look to said Trust Estate for satisfaction of the same.

ARTICLE 22. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303 and such additional rights, if any, arising out of the filing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof may be filed. The Trustee warrants that its principal place of business is located in the State of Illinois.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Agent pursuant to the CSA Assignment shall be deemed the original. Although for convenience this Agreement is dated as of the date first above written, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused

this instrument to be executed by duly authorized officers as of the date first above written.

PULLMAN INCORPORATED  
(PULLMAN STANDARD DIVISION),

by *E. J. [Signature]*  
Vice President - ~~Freight Unit~~

[Corporate Seal]

Attest:

*William O. [Signature]*  
Assistant Secretary

NORTH AMERICAN CAR CORPORATION,

by *[Signature]*  
Vice President

[Corporate Seal]

Attest:

*[Signature]*  
Assistant Secretary

EXCHANGE NATIONAL BANK OF CHICAGO,  
not in its individual capacity  
but solely as Trustee,

by *[Signature]*  
Vice President

[Seal]

Attest:

*[Signature]*  
Assistant Trust Officer

STATE OF ILLINOIS, )  
 ) ss.:  
COUNTY OF COOK, )

On this 16<sup>th</sup> day of November 1979, before me personally appeared E. J. [Signature], to me personally known, who, being by me duly sworn, says that he is Vice President-Freight Unit of PULLMAN INCORPORATED (PULLMAN STANDARD DIVISION), a Delaware corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

[Signature]  
Notary Public

MY COMMISSION EXPIRES  
August 7, 1983

[Notarial Seal]  
My Commission expires

STATE OF ILLINOIS, )  
 ) ss.:  
COUNTY OF COOK, )

On this 10<sup>th</sup> day of November 1979, before me personally appeared RA Noback, to me personally known, who, being by me duly sworn, says that he is Vice President of NORTH AMERICAN CAR CORPORATION, a Delaware corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

[Signature]  
Notary Public

[Notarial Seal]  
My Commission expires My Commission Expires Feb. 23, 1983

STATE OF ILLINOIS, )  
 ) ss.:  
COUNTY OF COOK, )

On this <sup>16</sup> day of November, 1979, before me personally appeared MICHAEL D. GOODMAN, to me personally known, who, being by me duly sworn, says that he is Vice President of EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

*Deborah Mizgale*  
\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires  
My Commission Expires July 27, 1981



## SCHEDULE I

Allocation Schedule of Each \$1,000,000  
of 10.35% CSA Indebtedness Payable in Installments

<u>Payment No.</u>	<u>Principal Payment</u>	<u>Interest Payment</u>	<u>Total Payment</u>	<u>Remaining Principal Balance</u>
1	\$3,528.85	\$8,625.00	\$12,153.85	\$996,471.15
2	3,559.29	8,594.56	12,153.85	992,911.86
3	3,589.99	8,563.86	12,153.85	989,321.87
4	3,620.95	8,532.90	12,153.85	985,700.92
5	3,652.18	8,501.67	12,153.85	982,048.74
6	3,683.68	8,470.17	12,153.85	978,365.06
7	3,715.45	8,438.40	12,153.85	974,649.61
8	3,747.50	8,406.35	12,153.85	970,902.11
9	3,779.82	8,374.03	12,153.85	967,122.29
10	3,812.42	8,341.43	12,153.85	963,309.87
11	3,845.30	8,308.55	12,153.85	959,464.57
12	3,878.47	8,275.38	12,153.85	955,586.10
13	3,911.92	8,241.93	12,153.85	951,674.18
14	3,945.66	8,208.19	12,153.85	947,728.52
15	3,979.69	8,174.16	12,153.85	943,748.83
16	4,014.02	8,139.83	12,153.85	939,734.81
17	4,048.64	8,105.21	12,153.85	935,686.17
18	4,083.56	8,070.29	12,153.85	931,602.61
19	4,118.78	8,035.07	12,153.85	927,483.83
20	4,154.30	7,999.55	12,153.85	923,329.53
21	4,190.13	7,963.72	12,153.85	919,139.40
22	4,226.27	7,927.58	12,153.85	914,913.13
23	4,262.72	7,891.13	12,153.85	910,650.41
24	4,299.49	7,854.36	12,153.85	906,350.92
25	4,336.57	7,817.28	12,153.85	902,014.35
26	4,373.98	7,779.87	12,153.85	897,640.37
27	4,411.70	7,742.15	12,153.85	893,228.67
28	4,449.75	7,704.10	12,153.85	888,778.92
29	4,488.13	7,665.72	12,153.85	884,290.79
30	4,526.84	7,627.01	12,153.85	879,763.95
31	4,565.89	7,587.96	12,153.85	875,198.06
32	4,605.27	7,548.58	12,153.85	870,592.79
33	4,644.99	7,508.86	12,153.85	865,947.80
34	4,685.05	7,468.80	12,153.85	861,262.75
35	4,725.46	7,428.39	12,153.85	856,537.29
36	4,766.22	7,387.63	12,153.85	851,771.07
37	4,807.32	7,346.53	12,153.85	846,963.75

<u>Payment No.</u>	<u>Principal Payment</u>	<u>Interest Payment</u>	<u>Total Payment</u>	<u>Remaining Principal Balance</u>
38	\$4,848.79	\$7,305.06	\$12,153.85	\$842,114.96
39	4,890.61	7,263.24	12,153.85	837,224.35
40	4,932.79	7,221.06	12,153.85	832,291.56
41	4,975.34	7,178.51	12,153.85	827,316.22
42	5,018.25	7,135.60	12,153.85	822,297.97
43	5,061.53	7,092.32	12,153.85	817,236.44
44	5,105.19	7,048.66	12,153.85	812,131.25
45	5,149.22	7,004.63	12,153.85	806,982.03
46	5,193.63	6,960.22	12,153.85	801,788.40
47	5,238.43	6,915.42	12,153.85	796,549.97
48	5,283.61	6,870.24	12,153.85	791,266.36
49	5,329.18	6,824.67	12,153.85	785,937.18
50	5,375.14	6,778.71	12,153.85	780,562.04
51	5,421.50	6,732.35	12,153.85	775,140.54
52	5,468.26	6,685.59	12,153.85	769,672.28
53	5,515.43	6,638.42	12,153.85	764,156.85
54	5,563.00	6,590.85	12,153.85	758,593.85
55	5,610.98	6,542.87	12,153.85	752,982.87
56	5,659.37	6,494.48	12,153.85	747,323.50
57	5,708.18	6,445.67	12,153.85	741,615.32
58	5,757.42	6,396.43	12,153.85	735,857.90
59	5,807.08	6,346.77	12,153.85	730,050.82
60	5,857.16	6,296.69	12,153.85	724,193.66
61	5,907.68	6,246.17	12,153.85	718,285.98
62	5,958.63	6,195.22	12,153.85	712,327.35
63	6,010.03	6,143.82	12,153.85	706,317.32
64	6,061.86	6,091.99	12,153.85	700,255.46
65	6,114.15	6,039.70	12,153.85	694,141.31
66	6,166.88	5,986.97	12,153.85	687,974.43
67	6,220.07	5,933.78	12,153.85	681,754.36
68	6,273.72	5,880.13	12,153.85	675,480.64
69	6,327.83	5,826.02	12,153.85	669,152.81
70	6,382.41	5,771.44	12,153.85	662,770.40
71	6,437.46	5,716.39	12,153.85	656,332.94
72	6,492.98	5,660.87	12,153.85	649,839.96
73	6,548.98	5,604.87	12,153.85	643,290.98
74	6,605.47	5,548.38	12,153.85	636,685.51
75	6,662.44	5,491.41	12,153.85	630,023.07
76	6,719.90	5,433.95	12,153.85	623,303.17
77	6,777.86	5,375.99	12,153.85	616,525.31
78	6,836.32	5,317.53	12,153.85	609,688.99

<u>Payment No.</u>	<u>Principal Payment</u>	<u>Interest Payment</u>	<u>Total Payment</u>	<u>Remaining Principal Balance</u>
79	\$6,895.28	\$5,258.57	\$12,153.85	\$602,793.71
80	6,954.75	5,199.10	12,153.85	595,838.96
81	7,014.74	5,139.11	12,153.85	588,824.22
82	7,075.24	5,078.61	12,153.85	581,748.98
83	7,136.27	5,017.58	12,153.85	574,612.71
84	7,197.82	4,956.03	12,153.85	567,414.89
85	7,259.90	4,893.95	12,153.85	560,154.99
86	7,322.51	4,831.34	12,153.85	552,832.48
87	7,385.67	4,768.18	12,153.85	545,446.81
88	7,449.37	4,704.48	12,153.85	537,997.44
89	7,513.62	4,640.23	12,153.85	530,483.82
90	7,578.43	4,575.42	12,153.85	522,905.39
91	7,643.79	4,510.06	12,153.85	515,261.60
92	7,709.72	4,444.13	12,153.85	507,551.88
93	7,776.22	4,377.63	12,153.85	499,775.66
94	7,843.28	4,310.57	12,153.85	491,932.38
95	7,910.93	4,242.92	12,153.85	484,021.45
96	7,979.16	4,174.69	12,153.85	476,042.29
97	8,047.99	4,105.86	12,153.85	467,994.30
98	8,117.40	4,036.45	12,153.85	459,876.90
99	8,187.41	3,966.44	12,153.85	451,689.49
100	8,258.03	3,895.82	12,153.85	443,431.46
101	8,329.25	3,824.60	12,153.85	435,102.21
102	8,401.09	3,752.76	12,153.85	426,701.12
103	8,473.55	3,680.30	12,153.85	418,227.57
104	8,546.64	3,607.21	12,153.85	409,680.93
105	8,620.35	3,533.50	12,153.85	401,060.58
106	8,694.70	3,459.15	12,153.85	392,365.88
107	8,769.69	3,384.16	12,153.85	383,596.19
108	8,845.33	3,308.52	12,153.85	374,750.86
109	8,921.62	3,232.23	12,153.85	365,829.24
110	8,998.57	3,155.28	12,153.85	356,830.67
111	9,076.19	3,077.66	12,153.85	347,754.48
112	9,154.47	2,999.38	12,153.85	338,600.01
113	9,233.42	2,920.43	12,153.85	329,366.59
114	9,313.06	2,840.79	12,153.85	320,053.53
115	9,393.39	2,760.46	12,153.85	310,660.14
116	9,474.41	2,679.44	12,153.85	301,185.73
117	9,556.12	2,597.73	12,153.85	291,629.61
118	9,638.54	2,515.31	12,153.85	281,991.07
119	9,721.68	2,432.17	12,153.85	272,269.39

<u>Payment No.</u>	<u>Principal Payment</u>	<u>Interest Payment</u>	<u>Total Payment</u>	<u>Remaining Principal Balance</u>
120	\$9,805.53	\$2,348.32	\$12,153.85	\$262,463.86
121	9,890.10	2,263.75	12,153.85	252,573.76
122	9,975.40	2,178.45	12,153.85	242,598.36
123	10,061.44	2,092.41	12,153.85	232,536.92
124	10,148.22	2,005.63	12,153.85	222,388.70
125	10,235.75	1,918.10	12,153.85	212,152.95
126	10,324.03	1,829.82	12,153.85	201,828.92
127	10,413.08	1,740.77	12,153.85	191,415.84
128	10,502.89	1,650.96	12,153.85	180,912.95
129	10,593.48	1,560.37	12,153.85	170,319.47
130	10,684.84	1,469.01	12,153.85	159,634.63
131	10,777.00	1,376.85	12,153.85	148,857.63
132	10,869.95	1,283.90	12,153.85	137,987.68
133	10,963.71	1,190.14	12,153.85	127,023.97
134	11,058.27	1,095.58	12,153.85	115,965.70
135	11,153.65	1,000.20	12,153.85	104,812.05
136	11,249.85	904.00	12,153.85	93,562.20
137	11,346.88	806.97	12,153.85	82,215.32
138	11,444.74	709.11	12,153.85	70,770.58
139	11,543.45	610.40	12,153.85	59,227.13
140	11,643.02	510.83	12,153.85	47,584.11
141	11,743.44	410.41	12,153.85	35,840.67
142	11,844.72	309.13	12,153.85	23,995.95
143	11,946.88	206.97	12,153.85	12,049.07
144	12,049.07	103.92	12,152.99	.00
	<u>\$1,000,000.00</u>	<u>\$750,153.54</u>	<u>\$1,750,153.54</u>	

Annex A  
to  
Conditional Sale Agreement

Information Relating to Building of Equipment

- Item 1: Pullman Incorporated (Pullman Standard Division), a Delaware corporation, 200 South Michigan Avenue, Chicago, Illinois 60604.
- Item 2: The Equipment shall be settled for in one Group of units of Equipment delivered to and accepted by NAC and the Trustee unless a greater number shall be agreed to by the parties hereto.
- Item 3: (a) The Builder warrants to NAC and the Trustee that the Equipment will be built in accordance with the Specifications and requirements set forth in Article 2 of this Agreement. The Builder further warrants that the Equipment will be free from defects in material (except as to items or specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by the Builder) and workmanship under normal use and service. The Builder's obligation under this Item 3(a) is limited to making good at its factory any part or parts of any unit of such Equipment that shall be returned to the Builder within one year with transportation charges prepaid and which the Builder's examination shall disclose to its satisfaction to have been defective; provided, however, that this warranty will be subject to the following limitations: (i) warranty coverage on running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever occurs first; and (ii) normal use and service is deemed to require inspection, adjustment, maintenance and compliance with the Builder's written instructions and any applicable Federal, state or local laws or regulations.

THE BUILDER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. The rights of NAC and the Trustee under the foregoing warranty shall be their sole and exclusive remedy and the Builder will have no liability for lost profits or for indirect, incidental, consequential or commercial losses. This warranty is expressly in lieu of all

other warranties expressed or implied on the part of the Builder, except for its obligations and liabilities under Articles 2, 3, 4 and 13 of this Agreement and Item 3(b) below. The Builder neither assumes nor authorizes any person to assume for it any other warranty liability in connection with the construction and delivery of the Equipment.

The Builder further agrees that NAC and the Trustee as well as the Builder may to the extent permitted by law take and prosecute claims against vendors of specialties purchased by the Builder for incorporation in the Equipment manufactured by the Builder for the breach of any warranty by the vendors with respect to such specialties. The Builder, NAC and the Trustee each agrees to notify the others prior to the assertion of any claim by them against any such vendors of specialties. If the Builder determines that it has no interest in any such claim asserted by the Trustee, the Builder agrees to assign to the Trustee, solely for the purpose of making and prosecuting any such claim, all the rights which the Builder has against such vendor for the breach of warranty or other representation respecting the Equipment manufactured by it. The word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

The Builder further agrees with NAC and the Trustee that neither the inspections provided for in Article 3 of this Agreement, nor any examination, nor the acceptance of any units of its Equipment as provided in said Article 3 shall be deemed a waiver or a modification by NAC or the Trustee of any of their rights under this Item 3(a).

(b) Except in case of designs, processes or combinations specified by the Lessee and not developed or purported to be developed by the Builder, and articles and materials specified by the Lessee and not manufactured by the Builder, the Builder agrees to indemnify, protect and hold harmless the Lessee, the Trustee and NAC from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Lessee, NAC and the Trustee 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, will indemnify, protect and hold harmless the Builder from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Builder because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process or combination specified by the Lessee and not developed or purported to be developed by the Builder, or article or material specified by the Lessee and not manufactured by the Builder, which infringes or is claimed to infringe on any patent or other right. The Builder 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 Builder 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 Builder in or about the construction or operation of the Equipment, or any unit thereof, 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 Builder further agrees to execute and deliver to the Lessee all and every such further assurances as may be reasonably requested by them 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 Builder of any claim known to the Lessee on the basis of which liability may be charged against the Builder hereunder.

- Item 4: The Maximum Trustee's Purchase Price referred to in Article 4 of the Agreement is \$5,375,000, plus 5/3rds the amount, if any, by which the investors' investments are increased pursuant to Paragraph 2 of the Participation Agreement.

Annex B  
to  
Conditional Sale Agreement

Schedule of Equipment

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
4,750 cu. ft. covered hopper cars	LO	#1013	Butler, Pa.	125	NAHX 481525- NAHX 481649	\$43,000	\$5,375,000	November 1979, at Butler, Pa.

ANNEX C  
to  
Conditional Sale Agreement

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[CS&M Ref. 4876-018]

LEASE OF RAILROAD EQUIPMENT

Dated as of November 1, 1979

between

AMERICAN GRAIN AND RELATED INDUSTRIES  
(A FARMER-OWNED COOPERATIVE)

and

EXCHANGE NATIONAL BANK OF CHICAGO,  
not in its individual capacity but solely  
as Trustee under a Trust Agreement  
dated as of the date hereof with  
Southeast First Leasing, Inc.

[Covering 125 4,750 cubic foot Covered Hopper Cars]

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## LEASE OF RAILROAD EQUIPMENT

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LEASE OF RAILROAD EQUIPMENT dated as of November 1, 1979, between AMERICAN GRAIN AND RELATED INDUSTRIES (A FARMER-OWNED COOPERATIVE), an Iowa cooperative association ("Lessee"), and EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association, acting not in its individual capacity but solely as trustee ("Trustee") under a Trust Agreement dated as of the date hereof ("Trust Agreement") with Southeast First Leasing, Inc. ("Owner").

The Trustee is entering into a Conditional Sale Agreement dated as of the date hereof ("CSA") with PULLMAN INCORPORATED (PULLMAN STANDARD DIVISION) ("Builder") and NORTH AMERICAN CAR CORPORATION ("NAC") wherein the Builder has agreed to manufacture, sell and deliver to NAC and NAC has agreed to sell and deliver to the Trustee the units of railroad equipment described in Schedule 1 hereto ("Equipment").

NAC is assigning certain of its interests in the CSA to LA SALLE NATIONAL BANK, acting as agent ("Agent") for Bankers Life Company under a Participation Agreement dated as of the date hereof ("Participation Agreement") among the Lessee, the Agent, the Owner, the Trustee and Bankers Life Company. The Builder and NAC will assign certain interests under the CSA and in the Equipment to the Agent pursuant to an Agreement and Assignment dated as of the date hereof ("CSA Assignment").

The Lessee desires to lease such number of units of Equipment as are delivered and accepted and settled for under the CSA ("Units") at the rentals and for the terms and upon the conditions hereinafter provided. The Trustee will assign this Lease for security to the Agent pursuant to an Assignment of Lease and Agreement dated as of the date hereof ("Lease Assignment").

In consideration of the agreements hereinafter set forth, the Trustee hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. Net Lease. This Lease is a net lease. Each of the Lessee's obligations to pay all rentals and other

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

§ 2. Delivery and Acceptance of Units. The Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. The Trustee will cause each Unit to be delivered to the Lessee at the point within the United States at which the Units are delivered to the Trustee under the CSA. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of

such Unit on behalf of the Trustee under the CSA and on behalf of the Lessee hereunder and execute and deliver to the Trustee a certificate of acceptance substantially in the form annexed hereto as Schedule 3 ("Certificate of Acceptance"), 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; provided, however, that the delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the CSA pursuant to the first paragraph of Article 4 thereof or the last sentence of Section 4 of the CSA Assignment shall be null and void and ineffective to subject such unit to this Lease.

§ 3. Rentals. The Lessee agrees to pay to the Trustee, as rental for each Unit subject to this Lease, one interim rental payment on the Closing Date (as defined in the CSA) and 144 consecutive monthly payments payable on the day of the month corresponding to the Closing Date in each of the 144 months immediately following the Closing Date. The interim rental payment shall be in an amount equal to 0.02831% of the Trustee's Purchase Price (as defined in the CSA) for each Unit subject to this Lease for each day elapsed from and including the date of acceptance of such Unit hereunder to but excluding the Closing Date. The 144 monthly payments shall each be in an amount equal to 0.84944% of the Trustee's Purchase Price of each such Unit.

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

The Trustee irrevocably instructs the Lessee to make all the payments provided for in this Lease, including but not limited to the payments provided for in this § 3 and in § 7 hereof (excluding all payments not assigned to the Agent pursuant to the Lease Assignment), at the principal office of the Agent, for the account of the Trustee in care of the Agent, with instructions to the Agent first to apply such payments to satisfy the obligations of the Trustee under the CSA and second, so long as no event of default or event which with notice or the lapse of time or both would constitute an event of default under the CSA shall have occurred

and be continuing, to pay any balance promptly to the Trustee at such place as the Trustee shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in Federal or other funds immediately available to the Agent by 11:00 a.m., Chicago time, on the date such payment is due.

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

All rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Agent under the CSA. If an event of default should occur under the CSA, the Agent may terminate this Lease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Lessee (at its own expense) will cause each Unit to be kept numbered with the road number set forth in Schedule 1 hereto, or in the case of any Unit not there listed, the road number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Trustee's and Agent's right, title and interest in such Unit. 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 and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Agent and the Trustee and filed by the Lessee in all public offices where this Lease and the CSA shall have been filed and (ii) the Lessee shall have furnished the Agent and

the Trustee an opinion of counsel to the effect that such statement has been so filed, such filing will protect the Agent's and the Trustee's interests in such Units and no filing with or giving of notice to any Federal, state or local government or agency thereof is necessary to protect the interests of the Agent and the Trustee in such Units.

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

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Trustee for collection or other charges and will be free of expense to the Trustee with respect to the amount of any local, state, Federal or foreign taxes (other than any United States Federal income tax payable by the Trustee in consequence of the receipt of payments provided for herein and, to the extent that the Trustee receives credit therefor against its United States Federal income tax liability, any foreign income tax, and other than the aggregate of all state or local taxes measured by net income based on such receipts, value added taxes in lieu of such net income taxes and any state franchise tax which is not based on or measured by net income up to the amount of any such taxes which would be payable to the state and city in which the Trustee has its principal place 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, ad valorem property taxes, taxes and charges (Federal, state and local), fines or penalties and interest (all such expenses, taxes, license fees, ad valorem property taxes, taxes and charges (Federal, state and local), fines and penalties and interest being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured with respect to this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the CSA, 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 opera-

tion thereof or upon the earnings arising therefrom (except as provided above) or upon the Trustee 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 Trustee or the interest of the Trustee or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as such imposition remains unpaid and Lessee is contesting in its own name and in good faith and by appropriate legal or administrative proceedings such impositions, or the Trustee is required to contest such impositions as provided in this § 6, and the nonpayment thereof does not, in the reasonable opinion of the Trustee, adversely affect the title, property or rights of the Trustee hereunder or the Trustee or the Agent under the CSA. The Lessee agrees to give the Trustee notice of such contest brought in Lessee's name within 30 days after institution thereof and the Trustee agrees to provide such information as may be reasonably requested by the Lessee in furtherance of such contest. If any impositions shall have been charged or levied against the Trustee directly and paid by the Trustee, the Lessee shall pay the Trustee on presentation of an invoice therefor if the Trustee shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Trustee) or the Lessee shall have approved the payment thereof, and the Trustee agrees to give the Lessee written notice promptly after it first obtains knowledge of the making of such charge or levy, and agrees to take such other action as may reasonably be requested by the Lessee for the purpose of contesting payment or obtaining refund of all or a portion of such imposition, as hereinafter provided in this § 6.

In the event that the Trustee shall become obligated to make any payment to the Builder or the Agent or otherwise pursuant to any correlative provision of the CSA 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 Trustee to fulfill completely its obligations pursuant to said provision; provided, however, that the Trustee shall have contested (if required to do so under this § 6) such impositions in good faith and to the extent permitted under the CSA.

In the event any returns, statements or reports with respect to impositions involving any Unit are required

to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Trustee and the Agent in such Units, as shall be satisfactory to the Trustee and the Agent or, where not so permitted, will notify the Trustee and the Agent of such requirement and will prepare and deliver such reports to the Trustee and the Agent within a reasonable period of time prior to the time such reports are to be filed in such manner as shall be satisfactory to the Trustee 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.

In the event the Lessee may be prohibited by law or is impaired from contesting in its own name any imposition covered by this § 6 in respect of which the Lessee would otherwise be required to make payments to the Trustee pursuant hereto, the Trustee shall, upon request and at the expense of the Lessee, take all legal and other appropriate action reasonably requested by the Lessee to contest such imposition. The Trustee shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Trustee for all liabilities and expenses which may be entailed therein. Further, the Lessee shall indemnify and hold the Trustee harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action taken by the Trustee or Lessee under this § 6. The Lessee shall be entitled to any refund received by the Trustee or the Lessee in respect of any imposition paid by the Lessee, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

The Lessee shall, whenever reasonably requested by the Trustee, submit to the Trustee copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Trustee reasonably may require to permit the Trustee's compliance with the requirements of taxing jurisdictions.

The amount which the Lessee shall be required to pay with respect to any imposition which is subject to indemnification under this § 6 shall be an amount sufficient to restore the Trustee to the same net after-tax rate of return and after-tax cash position, after considering the effect of such payment on its United States Federal income taxes and state and city income taxes or franchise taxes based on net income, that the Trustee would have been in had such imposition not been imposed. If the Trustee will not pay United States Federal income taxes, state or city income taxes or franchise taxes based upon net income on the payment of such amounts because of a tax loss carry-forward, a tax loss carry-back or a net operating loss for the year of payment, the Lessee shall pay in addition to such amounts an amount equal to the tax loss carry-forward, the tax loss carry-back or the net operating loss which is used up as a result of said payment and any payment required by this sentence.

For purposes of this § 6, references to the Trustee shall be deemed to include the Owner.

§ 7. Maintenance; Casualty Occurrences; Insurance; Termination. The Lessee, at its own cost and expense, will maintain and keep all of the Units which are subject to this Lease in good operating order, repair and condition and eligible for interchange service.

In the event that any Unit shall be or become lost, stolen, destroyed or irreparably damaged from any cause whatsoever, returned to the Builder pursuant to the patent indemnity provisions of the CSA or taken or requisitioned by condemnation or otherwise by the United States Government or any political subdivision thereof for a stated period which shall exceed the then remaining term of the Lease or for an indefinite period (but only when such period shall exceed the term hereof) or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days (each such occurrence a "Casualty Occurrence"), the Lessee shall promptly and fully notify the Trustee and the Agent with respect thereto. On the next succeeding rental payment date (or, if the term of the Lease has expired, within 30 days of such Casualty Occurrence) ("Casualty Payment Date"), the Lessee shall pay to the Trustee the rental payment in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule referred to 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 (except in the case of the loss, theft, complete destruction or return to the Builder of such Unit) the Trustee shall be entitled to recover possession of such Unit and the Lessee shall pay all costs of removal of such Unit and of freight to the place designated pursuant to § 14 hereof.

The Casualty Value of each Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be that percentage of the Trustee's Purchase Price of such Unit as is set forth in Schedule 2 hereto opposite the numbered Casualty Payment Date next succeeding the actual date of such Casualty Occurrence or, if there is no such numbered Casualty Payment Date, the last rental payment date; but in no event shall such amount be less than the Casualty Value as defined in the CSA.

Whenever any Unit shall suffer a Casualty Occurrence after the expiration of the original or extended term of this Lease and before such Unit shall have been returned in the manner provided in § 14 hereof, the Lessee shall promptly and fully notify the Trustee with respect thereto and pay to the Trustee an amount equal to the Casualty Value of such Unit, which shall be 29.780% of the Trustee's Purchase Price of such Unit (unless such termination occurs after the term of this Lease has been extended pursuant to § 13 hereof, in which case the amount of such Casualty Value shall be as agreed upon between the Trustee and the Lessee at the time of such extension). Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Trustee shall be entitled to recover possession of such Unit.

The Trustee hereby irrevocably appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Trustee, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Trustee.

In the event of the requisition for use (which is not a Casualty Occurrence) by the United States Government or any political subdivision thereof ("Government") of any

Unit during the term of this Lease, all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that the Lessee shall not be obligated to return such Unit to the Trustee pursuant to § 11 or 14 hereof, as the case may be, until such Unit has been returned by the Government (but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit). All payments received by the Trustee or the Lessee from the Government for the use of such Unit during the term of this Lease shall be paid over to or retained by the Lessee, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing. All payments received by the Trustee or the Lessee from the Government for the use of such Unit after the term of this Lease shall be paid over to or retained by the Trustee.

Except as provided in this § 7, the Lessee shall not be released from its obligations hereunder in the event of any Casualty Occurrence, and shall bear the risk of any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee will, at all times prior to the return of the Equipment to the Trustee, at its own expense, cause to be carried and maintained property insurance and public liability insurance in respect of the Units at the time subject hereto, in such amounts (subject to customary deductions) and against such risks and with such insurance companies satisfactory to the Trustee and the Agent, and, in any event, comparable in amounts and against risks insured against by the Lessee in respect of similar equipment owned by it. The proceeds of any such insurance shall be payable to the Agent, the Trustee, the Owner and the Lessee, as their respective interests may appear, so long as the indebtedness, if any, evidenced by the CSA shall not have been paid in full, and thereafter to the Trustee and, so long as there is no Event of Default hereunder, the Lessee as their respective interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancellation or material change in coverage to the Owner, the Trustee and the Agent, (ii) name the Trustee, the Owner and the Agent as additional named insureds as their respective interests may appear and (iii) waive any right to claim any premiums or commissions against the Owner, the Trustee and the Agent. In the event such policies shall contain breach of warranty provisions, such policies shall

provide that in respect of the interests of the Trustee, the Owner and the Agent in such policies the insurance shall not require contributions from other policies held by the Trustee, the Owner or the Agent and shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Trustee, the Owner and the Agent, respectively) and shall insure the Trustee, the Owner and the Agent regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Trustee, the Owner or the Agent, respectively). Prior to the first date of delivery of any Unit pursuant to the CSA, and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant to this § 7, the Lessee shall deliver to the Trustee certificates issued by the insurer(s) for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of any certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the certificate upon receipt thereof.

In the event that the Lessee shall fail to maintain insurance as herein provided, the Trustee may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand, reimburse the Trustee for the cost thereof together with interest on the amount of the cost to the Trustee of such insurance which the Lessee shall have failed to maintain at the rate per annum specified in § 16 hereof.

If the Trustee shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Trustee shall, subject to the Lessee's having made payment of the Casualty Value in respect of such Unit, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to such Unit paid by the Lessee. Any balance of such proceeds or condemnation payments shall remain the property of the Trustee. Insurance proceeds received by the Trustee from the Lessee's insurance coverage in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Trustee that any damage to such Unit in respect of which such proceeds were paid has been fully repaired, but only to the extent of the Lessee's costs (including overhead and profit, if applicable) in effecting such repairs. Except as aforesaid, all such insurance proceeds shall be retained by the Trustee.

§ 8. Reports and Inspection. On or before April 30

in each year, commencing with the calendar year 1981, the Lessee will furnish to the Trustee and the Agent an accurate statement stating (i) as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the CSA and of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Trustee or the Agent may reasonably request, (ii) that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the CSA have been preserved or replaced and (iii) that the Lessee is in compliance with all its agreements under the Lease and that no Event of Default or event which with notice or lapse of time or both would constitute an Event of Default has occurred. The Trustee, at its sole cost and expense, shall have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Trustee may request during the continuance of this Lease. The Lessee shall promptly notify the Trustee and the Agent of any material changes or any material proposed changes of which the Lessee has knowledge in its insurance coverage in effect with respect to the Equipment pursuant to § 7 hereof.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE TRUSTEE AND THE OWNER 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 TRUSTEE AND THE OWNER MAKE NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR AS TO THE LESSEE'S RIGHT TO QUIET ENJOYMENT THEREOF (EXCEPT AS TO ACTS OF THE TRUSTEE OR THE OWNER), NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, NOR SHALL THE TRUSTEE OR THE OWNER (EXCEPT AS TO VOLUNTARY ACTS OF THE TRUSTEE OR THE OWNER) BE RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT), it being agreed that all such risks, as between the Trustee, the Owner and the Lessee, are to be borne by the Lessee; but the Trustee hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for

the account of the Trustee or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Trustee may have against the Builder under the provisions of Item 3 of Annex A of the CSA; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Trustee may assert and enforce such claims and rights at the Lessee's sole cost and expense. The Trustee and the Owner shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; or (iii) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Trustee that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Trustee based on any of the matters stated in this paragraph.

The Lessee agrees, for the benefit of the Trustee, the Owner and the Agent, to comply in all respects (including without limitation the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which operations involving the Units may extend, with all interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent called the "Applicable Laws"), and in the event that the Applicable Laws require any alteration, replacement, addition or modification of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the reasonable opinion of the Trustee or the Agent, adversely affect the property or rights of the Trustee or the Agent under this Lease or under the CSA. The Lessee, at its own cost and expense, may furnish other additions, modifications and improvements to the Units which are readily removable without causing

material damage thereto during the term of this Lease. Any additions, modifications and improvements made by the Lessee which are readily removable without causing material damage to the Units and which are not required to comply with the Applicable Laws shall be owned by the Lessee and may be removed by the Lessee at any time during the term of this Lease or any renewal thereof and shall be removed, at the request of the Trustee, prior to the return thereof to the Trustee pursuant to § 11 or 14 hereof.

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

obligations under the Lease Assignment or the Agent's retention of a security interest under the CSA or the Lease Assignment or the Participation Agreement (all of such matters called "Indemnified Matters"), except to the extent such claim arises from the gross negligence or wilful misconduct of the Trustee. The Lessee shall be obligated under this § 9, whether or not any Indemnified Person shall also be indemnified with respect to any Indemnified Matter under any other agreement by any other person, and the Indemnified Person may proceed directly against the Lessee under this § 9, without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense defend such action, suit or proceeding, or cause the same to be defended by counsel selected by the Lessee and approved by such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any indemnification under this § 9, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. If the Owner will not pay Federal or state taxes on the payment of such sums because of a tax loss carry-forward, a tax loss carry-back or a net operating loss for the year of payment, then the Lessee shall pay, in addition to the sums set forth in the first or second preceding sentence, and amount equal to the tax loss carry-forward, the tax loss carry-back or the net operating loss which is used up as a result of said payment and any payment required by this sentence. The Lessee and the Trustee each agrees to give the other promptly upon obtaining knowledge thereof written notice of any claim hereby indemnified against. Upon the payment in full by the Lessee of any indemnities as contained in this § 9, and provided that no Event of Default (or other event which with notice or lapse of time or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified

Person) in respect of such Indemnified Matter. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any Indemnified Matter shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for its indemnification payments previously made. Nothing in this § 9 shall constitute a guarantee by the Lessee of the CSA Indebtedness (as defined in the CSA) or a guarantee of the residual value of any Unit.

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

The indemnities contained in this § 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of and shall be enforceable by any Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The Lessee agrees to prepare and deliver to the Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Trustee) any and all reports (other than tax returns) to be filed by the Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Trustee 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 an "Event of Default") shall occur:

(A) default shall be made in payment of any amount provided for in § 3 or § 7 of this Lease and such default

shall continue for 15 days after written notice from the Trustee or the Agent to the Lessee specifying the default and demanding that the same be remedied;

(B) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof and shall fail or refuse to cause such assignment or transfer to be canceled by agreement of all parties having any interest therein and to recover possession of such Units within 15 days after written notice from the Trustee to the Lessee demanding such cancelation and recovery of possession;

(C) default shall be made in the observance or performance of any other covenant, condition or agreement on the part of the Lessee contained herein or in the Participation Agreement, and such default shall continue for 45 days after written notice from the Trustee, the Owner or the Agent to the Lessee specifying the default and demanding that the same be remedied;

(D) default shall be made in the observance or performance of any covenant, condition or agreement on the part of the Lessee contained in the Indemnity Agreement (as defined in the Participation Agreement), and such default shall continue for 45 days after written notice from the Trustee or the Owner to the Lessee specifying the default and demanding that the same be remedied;

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

(F) a petition for reorganization under Title 11 of the United States Code, as now or hereafter constituted, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Consent (as defined in the CSA) shall not have been and shall not continue to be duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such

manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed;

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

(H) an event of default set forth in Article 15 of the CSA shall have occurred and be continuing;

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

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Trustee may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the

Lessee or its successors or assigns to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Trustee shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of a bargain and not as a penalty an amount equal to the excess, if any, of the Casualty Value as of the Casualty Payment Date on or next preceding the date of termination over the amount the Trustee reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Trustee shall have sold any Unit, the Lessee shall, if the Trustee shall so elect, pay to the Trustee on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit as of the Casualty Payment Date on or next preceding the date of termination over the net proceeds of such sale, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause of this part (b) with respect to such Unit.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Trustee's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

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

hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

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

The Lessee agrees to furnish written notice to the Trustee, the Owner and the Agent, promptly upon knowledge of an Event of Default or an event which with notice or lapse of time or both would constitute an Event of Default, specifying such condition and the nature and status thereof.

§ 11. Return of Units Upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Trustee may take or cause to be taken by its agent or agents immediate possession of each of the Units or one or more of the Units and may remove the same from possession and use of the Lessee or any other person and for such purpose may enter upon any premises where the Units 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 Lessee, subject to all mandatory requirements of due process of law.

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

(a) forthwith and in the usual manner place such Units upon such storage tracks as the Trustee reasonably may designate;

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

(c) cause the same to be transported to any reasonable place as directed by the Trustee.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having competent jurisdiction the Trustee shall be entitled to a decree against the Lessee requiring specific performance thereof. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Trustee and, if received by the Lessee, shall be promptly turned over to the Trustee. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination the Lessee shall, in addition, pay to the Trustee for each day thereafter an amount equal to the amount, if any, by which 0.02831% of the Trustee's Purchase Price of such Unit exceeds the actual earnings received by the Trustee on such Unit for each such day. Such payment shall not affect the obligation of the Lessee to redeliver the Equipment pursuant to the first sentence of this paragraph.

The Lessee hereby irrevocably appoints the Trustee as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Trustee, 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.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Trustee without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Trustee except upon written notice of such assignment from the Trustee; provided that no assignment for other than security purposes shall be made without the consent of the Lessee, which consent shall not be unreasonably withheld. All the rights of the Trustee hereunder (including, but not limited to, the rights under §§ 6, 7 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Trustee's assigns.

So long as the Lessee shall not be in default under this Lease and the Lessee shall have fully complied with the provisions of the fourth paragraph of this § 12, the Lessee shall be entitled to the possession and use of the Units and, without the Trustee's consent, to sublease the Units to or to permit their use by a user incorporated in the United States or any state thereof or the District of Columbia (including a corporate subsidiary or member cooperative association of the Lessee), upon lines of railroad owned or operated by the Lessee or such user or by a railroad company or companies incorporated in the United States or any state thereof or the District of Columbia, or over which the Lessee, such user, or such railroad company or companies have trackage rights or rights for operation of their trains, and upon the lines of railroad of connecting and other carriers in the usual interchange of traffic or in-through or run-through service, but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Trustee's consent, not to be unreasonably withheld, must be obtained for any sublease that is for a term or terms that aggregate more than six months in any one year; provided further, that the Lessee shall not sublease or permit the sublease or use of any Unit predominantly outside the United States; and provided further, that any sublease or use shall be consistent with the provisions of § 14 hereof. No such assignment or sublease shall relieve the Lessee of its obligations hereunder which shall be and remain those of principal and not a surety. The Lessee may receive and retain compensation for the use of any Units from railroads or other entities using the same.

Any sublease may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Units included in such sublease and the use thereof; provided, however, that every sublease shall be subject to the rights and remedies of the Agent under the CSA and the Trustee under this Lease in respect of the Units covered by such sublease upon the occurrence of an Event of Default thereunder or hereunder.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease as aforesaid and other than an encumbrance resulting from claims against the Trustee, NAC or the Agent not related to the ownership or leasing of the Units or the security title of the Agent to the Units) which may at any time be imposed on or with respect to any Unit, including any accession thereto or the interest of the Trustee, the Agent or the Lessee therein;

except that this covenant will not be breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent; and, furthermore, the Lessee shall be under no obligation to discharge any such lien, charge, security interest or encumbrance so long as it is contesting the same in good faith and by appropriate legal proceedings and the failure to discharge the same does not, in the reasonable opinion of the Trustee and the Agent, adversely affect the title, property or rights of the Trustee hereunder or the Agent under the CSA.

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

§ 13. Renewal Options. The parties hereto contemplate that at the end of the original term of this Lease, the Trustee will hold the Units for re-lease. Prior to the delivery of the Units pursuant to § 2 hereof, the Trustee will enter into an agreement ("Option Agreement") with Tiger Financial Services, Inc. ("Tiger"), pursuant to which the Trustee will grant to Tiger the option to lease all but not fewer than all of the Units for one four-year term commencing at the end of the original term of this Lease on such terms as are set forth in the Option Agreement. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, if Tiger shall fail to exercise its option to lease the Units at the end of the original term of this Lease, the Lessee, by written notice delivered to the Trustee not less than three months prior to the end of the original term of this Lease, may elect to extend the term of this Lease in respect of all but not fewer than all of the Units then covered by this Lease, for one four-year period

commencing on the scheduled expiration of the original term of this Lease. Such extension shall be on the same terms and conditions as are contained in this Lease, except as to the amount of rentals, which shall be at a "Fair Market Rental" (as such term is defined in this § 13), payable monthly in arrears, and except as to applicable Casualty Values, which shall be as agreed upon between the Trustee and the Lessee at the time of such extension.

Fair Market Rental shall be determined on the basis of and shall be equal in amount to the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental but there shall be excluded any rental value attributable to additions, modifications and improvements which the Lessee is entitled to remove pursuant to § 9 hereof; provided, however, that Fair Market Rental shall be determined as provided in the preceding sentences on the basis of the term and other terms and conditions of the lease being considered.

If, after 45 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, as provided in the first paragraph of this § 13, the Lessee and the Trustee are unable to agree upon a determination of Fair Market Rental, either party to such determination may give written notice to the other requesting determination of such value by this appraisal procedure and the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers so appointed shall within 35 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single

appraiser or if either party shall have failed to appoint an appraiser, the determination of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Trustee.

§ 14. Return of Units upon Expiration of Lease Term. As soon as practicable on or after the expiration of the original term or any extended term of this Lease with respect to the Units, the Lessee will, at its own cost and expense, at the request of the Trustee, deliver possession of such Units to the Trustee upon such storage tracks as the Trustee may reasonably designate or, in the absence of Trustee's designation, as Lessee may select, and permit the Trustee to store such Units on such tracks for a period not exceeding 60 days and transport the same, at any time within such 60-day period, to any reasonable place as directed by the Trustee, the movement and storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of such Units, 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 the rights of inspection granted under this sentence. Each Unit returned to the Trustee pursuant to this § 14 shall be (i) in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) meet all standards of the Applicable Laws then in effect and (iii) have attached or affixed thereto any special device considered an accession thereto and have removed therefrom any such device not so considered an acces-

sion. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having competent jurisdiction, the Trustee shall be entitled to a decree against the Lessee requiring specific performance of such covenants of the Lessee. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Trustee and, if received by the Lessee, shall be promptly turned over to the Trustee. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Trustee for each day thereafter an amount equal to the amount, if any, by which 0.02831% of the Trustee's Purchase Price of such Unit exceeds the actual earnings received by the Trustee on such Unit for each such day.

§ 15. Filing. The Lessee, at its own expense, will cause this Lease, the CSA, the Lease Assignment and the CSA Assignment to be filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303 prior to the delivery and acceptance of any Unit hereunder. The Lessee will undertake the filing required of the Trustee under the CSA and will from time to time perform any other act and will execute, acknowledge, deliver and file (and will refile whenever required) any and all further instruments required by law or reasonably requested by the Trustee or the Agent for the purpose of proper protection, to their satisfaction, of their respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA, the Lease Assignment and the CSA Assignment; and the Lessee will promptly furnish to the Trustee and the Agent evidence of all such filing and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Trustee and the Agent.

§ 16. Interest on Overdue Rentals. The Lessee shall promptly pay, to the extent legally enforceable, interest at a rate per annum equal to 11.35% on any overdue rentals and other obligations due hereunder for the period of time during which they are overdue.

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

(a) if to the Trustee, at 130 South LaSalle Street,

Chicago, Illinois 60690, attention of Corporate Trust Department; and

(b) if to the Lessee, at P. O. Box 4887, Des Moines, Iowa 50306, attention of R. Patrick Kevlin, with a copy to Wilbur N. Bump, 712 Financial Center, Des Moines, Iowa 50309;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Agent at 135 South LaSalle Street, Chicago, Illinois 60690, attention of Corporate Trust Department, and to Tiger at 222 South Riverside Plaza, Chicago, Illinois 60606, Attention of President.

§ 18. 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. Any such prohibition or unenforceability shall not invalidate or render unenforceable such provision in any other jurisdiction.

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

§ 19. Execution. This Lease may be executed in several counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Agent pursuant to the Lease Assignment shall be deemed to be the original counterpart. Although for convenience this Lease is dated as of the date first above written, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

§ 20. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 21. Term Trustee. Whenever the term Trustee is used in this Lease, it shall apply to the Trustee and any assignee of the Trustee (including the Agent so long as any CSA Indebtedness under the CSA or interest thereon shall remain unpaid or any other obligation thereunder be continuing).

§ 22. Concerning the Trustee. Each and all of the representations, warranties and agreements herein made on the part of the financial institution acting as Trustee hereunder are made and intended not as personal representations, warranties and agreements by said institution or for the purpose or with the intention of binding said institution personally but are made and intended for the purpose of binding only the Trust Estate (as such term is used in the Trust Agreement) and this Lease is executed and delivered by said institution solely in the exercise of the powers expressly conferred upon said institution as trustee under the Trust Agreement, and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said institution (except for wilful misconduct or gross negligence) or against the Owner under the Trust Agreement (except under Section 1.03 and the last paragraph of Section 5.01 thereof) or on account of any representation, warranty or agreement herein of the Trustee or the Owner, either expressed or implied, all such personal liability (except as aforesaid and as provided in the last paragraph of Article 12 of the CSA), if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee; provided, however, that the Lessee and any person claiming by, through or under the Lessee may look to the Trust Estate for satisfaction of the same.

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

AMERICAN GRAIN AND RELATED  
INDUSTRIES (A FARMER-OWNED  
COOPERATIVE),

by

\_\_\_\_\_  
Vice President

Attest:

\_\_\_\_\_  
Secretary



STATE OF IOWA, )  
 ) ss.:  
COUNTY OF POLK,)

On this            day of November 1979, before me personally appeared           , to me personally known, who, being by me duly sworn, says that he is a            of AMERICAN GRAIN AND RELATED INDUSTRIES (A FARMER-OWNED COOPERATIVE), an Iowa cooperative association, that said cooperative association has no seal, that said instrument was signed on behalf of said cooperative association by authority of its By-laws and resolution of its board of directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said cooperative association.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires

STATE OF ILLINOIS,) ) ss.:  
 )  
COUNTY OF COOK, )

On this the            day of November 1979, before me personally appeared           , to me personally known, who, being by me duly sworn, says that he is            of EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association, that the seal affixed to the foregoing instrument is the seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires

## SCHEDULE 1 TO LEASE

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>
4,750 cu. ft. covered hopper cars	LO	125	NAHX 481525- NAHX 481649

SCHEDULE 2 TO LEASE  
CASUALTY VALUES

<u>Casualty Payment Date</u>	<u>Percentage of Trustee's Purchase Price</u>	<u>Casualty Payment Date</u>	<u>Percentage of Trustee's Purchase Price</u>
1	107.697	41	97.666
2	109.121	42	97.396
3	109.261	43	97.118
4	109.401	44	96.833
5	109.498	45	96.543
6	109.536	46	96.249
7	109.555	47	95.947
8	109.508	48	95.637
9	109.404	49	95.323
10	109.298	50	95.297
11	109.170	51	94.966
12	109.021	52	94.632
13	108.870	53	94.298
14	109.245	54	93.958
15	109.051	55	93.610
16	108.854	56	93.257
17	108.681	57	92.899
18	108.518	58	92.537
19	108.345	59	92.168
20	108.186	60	91.790
21	108.039	61	84.452
22	107.890	62	84.282
23	107.730	63	83.885
24	107.560	64	83.485
25	107.389	65	83.083
26	107.650	66	82.677
27	107.457	67	82.264
28	107.263	68	81.846
29	107.070	69	81.424
30	106.871	70	80.998
31	106.663	71	80.565
32	106.449	72	80.124
33	106.229	73	79.680
34	106.008	74	79.368
35	105.776	75	78.909
36	105.536	76	78.446
37	98.336	77	77.982
38	98.455	78	77.513
39	98.194	79	77.039
40	97.930	80	76.560

<u>Casualty Payment Date</u>	<u>Percentage of Trustee's Purchase Price</u>	<u>Casualty Payment Date</u>	<u>Percentage of Trustee's Purchase Price</u>
81	76.078	121	46.067
82	75.592	122	45.208
83	75.099	123	44.549
84	74.600	124	43.885
85	67.139	125	43.218
86	66.687	126	42.551
87	66.170	127	41.881
88	65.649	128	41.212
89	65.126	129	40.542
90	64.600	130	39.867
91	64.068	131	39.189
92	63.534	132	38.508
93	62.996	133	37.821
94	62.454	134	36.832
95	61.906	135	36.139
96	61.353	136	35.439
97	60.794	137	34.737
98	60.204	138	34.036
99	59.635	139	33.333
100	59.060	140	32.632
101	58.483	141	31.932
102	57.904	142	31.226
103	57.321	143	30.518
104	56.736	144	29.780
105	56.148		
106	55.555		
107	54.958		
108	54.356		
109	53.749		
110	53.023		
111	52.406		
112	51.783		
113	51.158		
114	50.532		
115	49.902		
116	49.272		
117	48.640		
118	48.003		
119	47.362		
120	46.717		

## SCHEDULE 3 TO LEASE

Certificate of Acceptance

To: Pullman Incorporated (Pullman Standard Division)  
200 South Michigan Avenue  
Chicago, Illinois 60604

Exchange National Bank of Chicago,  
acting as Trustee ("Trustee")  
130 South LaSalle Street  
Chicago, Illinois 60690

North American Car Corporation ("NAC")  
222 South Riverside Plaza  
Chicago, Illinois 60606

I, the authorized representative for the Trustee, American Grain and Related Industries (A Farmer-Owned Cooperative) ("Lessee") and NAC under the Conditional Sale Agreement ("CSA") and the Lease of Railroad Equipment, both dated as of November 1, 1979, do hereby certify that I inspected thereunder the following Units of Equipment:

TYPE OF EQUIPMENT: Covered Hopper Cars, 4750 cu. ft.  
NUMBER OF UNITS:  
ROAD NUMBERS:

I do further certify that each of the foregoing Units is in good order and condition and appears to conform to the specifications, requirements and standards applicable thereto as provided in Article 2 of the CSA and that each has been marked on each side of each such Unit, in letters not less than one inch in height, with the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION".

I hereby certify that I accept delivery of the foregoing Units on behalf of the Trustee, the Lessee and NAC.

Date \_\_\_\_\_

\_\_\_\_\_  
Authorized Representative of  
Trustee, Lessee and NAC

ANNEX D  
to  
Conditional Sale Agreement

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[CS&M Ref. 4876-018]

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of November 1, 1979

between

EXCHANGE NATIONAL BANK OF CHICAGO,  
not in its individual capacity but solely  
as Trustee under a Trust Agreement  
dated as of the date hereof with  
Southeast First Leasing, Inc.,

and

LA SALLE NATIONAL BANK,  
as Agent.

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ASSIGNMENT OF LEASE AND AGREEMENT dated as of November 1, 1979, between EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association, acting not in its individual capacity but solely as trustee ("Trustee") under a trust agreement dated as of the date hereof ("Trust Agreement") with SOUTHEAST FIRST LEASING, INC. ("Owner"), and LA SALLE NATIONAL BANK, a national banking association, as agent ("Agent") under a Participation Agreement dated as of the date hereof ("Participation Agreement").

The Trustee is entering into a Conditional Sale Agreement dated as of the date hereof ("CSA") with PULLMAN INCORPORATED (PULLMAN STANDARD DIVISION) ("Builder") and NORTH AMERICAN CAR CORPORATION ("NAC"), providing for the sale to NAC by the Builder and the conditional sale to the Trustee by NAC of such units of railroad equipment ("Units") described in Annex B thereto as are delivered to and accepted by NAC and the Trustee thereunder.

AMERICAN GRAIN AND RELATED INDUSTRIES (A FARMER-OWNED COOPERATIVE) ("Lessee") and the Trustee have entered into a Lease of Railroad Equipment dated as of the date hereof ("Lease") providing for the leasing by the Trustee to the Lessee of the Units.

The Trustee will assign certain of its rights under the Lease to the Agent in order to secure the obligations of the Trustee under the CSA and as an inducement to the Investors (as defined in the Participation Agreement) to invest in the CSA Indebtedness (as defined in the CSA).

In consideration of the agreements hereinafter set forth, the parties hereto hereby agree as follows:

1. The Trustee hereby transfers and assigns to the Agent, as collateral security for the payment and performance of the obligations of the Trustee under the CSA, all the Trustee's right, title and interest, powers, privileges, and other benefits under the Lease, including without limitation the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Trustee from the Lessee pursuant to the provisions of the Lease, whether as rent, casualty payment,

indemnity, liquidated damages, or otherwise (other than any increase in rental payments which may be required by the Indemnity Agreement (as defined in the Participation Agreement)) (such moneys called "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease and to do any and all other things whatsoever which the Trustee is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Trustee hereby irrevocably authorizes and empowers the Agent in its own name or in the name of its nominee or in the name of the Trustee or as its attorney to demand, sue for, collect and receive any and all Payments to which the Trustee is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Agent agrees to accept any Payments made by the Lessee for the account of the Trustee pursuant to the Lease. To the extent received, the Agent will apply such Payments to satisfy the obligations of the Trustee under the CSA and, so long as no event of default or event which with notice or the lapse of time or both would constitute an event of default thereunder shall have occurred and be continuing, any balance shall be paid to the Trustee on the same date such Payment is applied to satisfy such obligations of the Trustee, by check mailed to the Trustee on such date or, upon written request of the Trustee, by bank wire to the Trustee at such address as may be specified to the Agent in writing, and such balance shall be retained by the Trustee. The Agent shall notify the Trustee at the address set forth in the Lease if the Agent shall not receive any rental payment under the first paragraph of § 3 of the Lease when due; provided, however, that the failure of the Agent to so notify the Trustee shall not affect the obligations of the Trustee hereunder or under the CSA.

Notwithstanding any other provision of this Assignment (including but not limited to any provision of the first paragraph of Section 1 and Section 3 hereof), so long as there is no event of default under the CSA, and to the extent that the Agent does not seek to receive and collect any Payments under the Lease in excess of the amounts required to discharge the obligations of the Trustee under the CSA, the terms of this Assignment shall not limit or in any way affect the Trustee's right to receive and collect any Payments under the Lease in excess of the obliga-

tions of the Trustee under the CSA, or empower the Agent in any way to waive or release the Lessee's obligation to pay the same, and the Trustee shall continue to be empowered to demand, sue for, collect and receive any and all of such excess amounts, but shall not take any action under subparagraph (b) of § 10 of the Lease without the written consent of the Agent.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Agent to or transfer or in any way affect or modify the liability of the Trustee under the Lease. Notwithstanding this Assignment or any subsequent assignment for security purposes, all obligations of the Trustee to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against and only against the Trustee or persons other than the Agent.

3. The Trustee will faithfully perform each and every obligation, covenant and agreement which the Lease provides is to be performed by the Trustee and, without the written consent of the Agent, will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee (including without limitation the obligation to pay the rents in the manner and at the time and place specified therein) or enter into any agreement amending, modifying or terminating the Lease. Any amendment, modification or termination of the Lease without the Agent's consent shall be void.

4. The Trustee does hereby constitute the Agent the Trustee's true and lawful attorney, irrevocably, with full power (in the name of the Trustee, or otherwise), to demand and receive any and all Payments due and to become due under or arising out of the Lease to which the Trustee is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Agent may deem to be necessary or advisable.

5. Upon the full discharge and satisfaction of all sums due from the Trustee under the CSA, this Assignment and all rights herein assigned to the Agent shall terminate, and all right, title and interest of the Agent in and to the Lease shall revert to the Trustee.

6. The Trustee will pay and discharge any and all claims, liens, charges, security interests or other encumbrances (other than those created by the CSA) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Trustee or the Owner or their successors and assigns (other than the Agent), not arising out of the transactions contemplated by the CSA or the Lease (but including tax liens arising out of the receipt of the rentals and other payments under the Lease and any other proceeds from the Units) which if unpaid might become a claim, lien, charge, security interest or other encumbrance on or with respect to the Lease or such rentals or other payments, unless the Trustee or the Owner shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Agent, adversely affect such interests of the Agent.

7. The Trustee will from time to time execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Agent in order to confirm or further assure the interest of the Agent hereunder.

8. The Agent may assign all or any of the rights assigned to it hereby or arising under the Lease, including without limitation the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder.

9. This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

10. The Trustee shall cause copies of all notices received in connection with the Lease and all Payments hereunder to be promptly delivered or mailed to the Agent at its address set forth in Article 20 of the CSA or at such other address as the Agent shall designate.

11. So long as no event of default under the CSA has occurred and is continuing, the Agent, without the prior consent of the Trustee, will not exercise or seek to exercise any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Trustee to the Agent by this Assignment to the extent they are for the sole benefit of the Trustee and not required to satisfy the obligations of the Trustee under the CSA.

12. Each and all of the representations, warranties and agreements herein made on the part of the financial institution acting as Trustee hereunder are made and intended not as personal representations, warranties and agreements by said institution or for the purpose or with the intention of binding said institution personally but are made and intended for the purpose of binding only the Trust Estate (as such term is used in the Trust Agreement) and this Assignment is executed and delivered by the said institution solely in the exercise of the powers expressly conferred upon said institution as trustee under the Trust Agreement, and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said institution (except for wilful misconduct or gross negligence) or against the Owner under the Trust Agreement (except under Section 1.03, Section 3.04 and the last paragraph of Section 5.01 thereof) or on account of any representation, warranty or agreement herein of the Trustee or the Owner, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Agent and by all persons claiming by, through or under the Agent; provided, however, that the Agent or any person claiming by, through or under it making claim hereunder may look to said Trust Estate for satisfaction of the same.

13. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Agent shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first above written, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused

this instrument to be executed by duly authorized officers  
as of the date first above written.

EXCHANGE NATIONAL BANK OF CHICAGO,  
not in its individual capacity but  
solely as Trustee,

by

\_\_\_\_\_  
Vice President

[Seal]

Attest:

\_\_\_\_\_  
Assistant Trust Officer

LA SALLE NATIONAL BANK, as Agent,

by

\_\_\_\_\_  
Vice President

[Seal]

Attest:

\_\_\_\_\_  
Assistant Secretary

STATE OF ILLINOIS, )  
 ) ss.:  
 COUNTY OF COOK, )

On this            day of November 1979, before me personally appeared           , to me personally known, who, being by me duly sworn, says that he is Vice President of EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

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Notary Public

[Notarial Seal]

My Commission expires

STATE OF ILLINOIS, )  
 ) ss.:  
 COUNTY OF COOK, )

On this            day of November 1979, before me personally appeared           , to me personally known, who, being by me duly sworn, says that he is a            of LA SALLE NATIONAL BANK, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

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Notary Public

[Notarial Seal]

My Commission expires

## CONSENT AND AGREEMENT

AMERICAN GRAIN AND RELATED INDUSTRIES (A FARMER-OWNED COOPERATIVE) ("Lessee"), the lessee named in the Lease referred to in the foregoing Assignment of Lease and Agreement ("Lease Assignment"), hereby acknowledges receipt of a copy of the Lease Assignment and consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay all Payments (as defined in the Lease Assignment) payable under the Lease directly to LA SALLE NATIONAL BANK, as agent ("Agent"), the assignee named in the Lease Assignment, at 135 South LaSalle Street, Chicago, Illinois 60690, attention of Corporate Trust Department (or at such other address as may be furnished in writing to the Lessee by the Agent);

(2) the Agent shall be entitled to the benefits of and to receive and enforce performance of all the covenants to be performed by the Lessee under the Lease as though the Agent were named therein as the Trustee; and the Agent shall not by virtue of the Lease Assignment be or become subject to any liability or obligation under the Lease or otherwise; and

(3) without the prior written consent of the Agent, the Lease shall not be terminated or modified nor shall any action be taken or omitted by the Lessee which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

AMERICAN GRAIN AND RELATED  
INDUSTRIES (A FARMER-OWNED  
COOPERATIVE),

by

\_\_\_\_\_  
Vice President

Attest:

\_\_\_\_\_  
Assistant Secretary