

**CONRAIL**



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RECORDATION NO. 9751 Filed 1425  
OCT 10 1978 8 30 P.M.  
INTERSTATE COMMERCE COMMISSION

October 10, 1978

HAND DELIVER

Mr. H. G. Homme, Jr., Acting Secretary  
Interstate Commerce Commission  
12th and Constitution Avenue  
Washington, DC 20423

Dear Mr. Homme:

Pursuant to Section 20c of the Interstate Commerce Act and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Consolidated Rail Corporation for filing and recordation counterparts of a Lease of Railroad Equipment, dated as of September 1, 1978 from Pullman Leasing Company, as Lessor, to Consolidated Rail Corporation, as Lessee.

The names and addresses of the parties to the above-mentioned agreement are:

Lessor: Pullman Leasing Company  
200 South Michigan Avenue  
Chicago, Illinois 60604

Lessee: Consolidated Rail Corporation  
1310 Six Penn Center Plaza  
Philadelphia, Pennsylvania 19104

Please file and record the above-mentioned lease. The equipment covered thereby consists of 1,000 100-ton open top hopper cars, AAR mechanical designation HT, bearing identifying numbers CR 489801 to CR 490800, both inclusive.

*Jeffrey R. Zuttlemoyer*

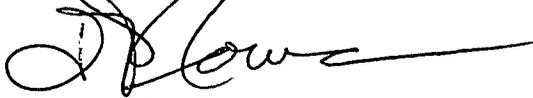
*Consolidated*

8-233A167

No.             
Date OCT 10 1978  
Fee \$ 50.00

Enclosed is a check for \$50 payable to the Interstate Commerce Commission. Please accept for recordation one counterpart of the above-mentioned lease, stamp the remaining counterparts with your recordation number, and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Rowan", with a long horizontal flourish extending to the right.

Joseph T. Rowan  
Corporate Counsel  
Consolidated Rail Corporation  
Six Penn Center Plaza  
Philadelphia, PA 19104

BSN/dej

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

10/10/78

OFFICE OF THE SECRETARY

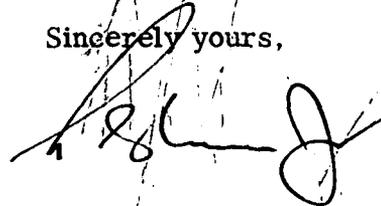
Joseph T. Rowan  
Consolidated Rail Corp.  
Six Penn Center Plaza  
Phila. Pa. 19104

Dear

**Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **10/10/78** at **3:30pm** and assigned recordation number(s) **9751-**

Sincerely yours,



H.G. Homme, Jr.,  
Acting Secretary

Enclosure(s)

SE-30-T  
(2/78)

9751  
RECORDATION NO. .... Filed 1425

OCT 10 1978 - 8 50 PM

INTERSTATE COMMERCE COMMISSION

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LEASE OF RAILROAD EQUIPMENT

DATED AS OF SEPTEMBER 1, 1978

FROM

PULLMAN LEASING COMPANY  
Lessor

TO

CONSOLIDATED RAIL CORPORATION  
Lessee

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1,000 100-ton, Steel Welded and  
Riveted Triple Open Top  
Hopper Cars; 3420 cubic  
foot capacity

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## LEASE OF RAILROAD EQUIPMENT

This Lease of Railroad Equipment dated as of the 1st day of September, 1978, by and between Pullman Leasing Company, a Delaware corporation, (hereinafter referred to as "Lessor"), and Consolidated Rail Corporation, a Pennsylvania corporation, (hereinafter referred to as "Lessee")

### WITNESSETH THAT:

In consideration of the premises and of the rentals to be paid and the covenants hereinafter set forth to be kept and performed by Lessee, Lessor hereby leases the following described railroad equipment

1,000 - 100-Ton Steel Welded and  
Riveted Triple Open Top Hopper Cars;  
3420 cubic foot capacity

(hereinafter collectively referred to as the "Units" and separately as a "Unit") to Lessee upon the following terms and conditions:

### SECTION 1. NET LEASE.

This Lease is a net lease. The Lessee acknowledges and agrees that the Lessee's obligation to pay all rentals and other amounts payable hereunder and the rights of the Lessor in and to such rentals and other amounts shall be absolute and unconditional, and Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor, except as to claims against Pullman Incorporated (Pullman Standard Division), (hereinafter called the "Builder"), under this Lease or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any lien, security interest, encumbrance or right 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 rentals and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the Lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever, except as may be herein provided.

Any reference herein to this Lease or any other agreement shall mean said Lease or agreement, as the case may be, and all amendments hereto or thereto in effect. The term "person", whenever used in this Lease, means any natural person, firm, trust, partnership, joint venture, unincorporated association, corporation, government or governmental agency.

## SECTION 2. CONSTRUCTION

The Units shall be built in accordance with the specifications referred to in Appendix A hereto and in accordance with such modifications thereof as may be agreed upon in writing by the Lessor and the Lessee. The Lessor hereby warrants that the design, quality and component parts of each Unit shall conform, on the date of delivery hereunder, to all 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 each Unit.

## SECTION 3. DELIVERY AND ACCEPTANCE OF UNITS

The Lessor will deliver the Units to the Lessee at the place or places specified in Appendix A hereto, freight charges and storage charges, if any, prepaid, in accordance with the delivery schedule set forth in Appendix A hereto. Upon such delivery, the Lessee will cause an employee 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 Lessee hereunder and execute and deliver to the Lessor a certificate of acceptance (hereinafter called the "Certificate of Acceptance") substantially in the form hereto attached as Appendix D, stating that such Unit has been inspected and accepted on behalf of the Lessee on the date of such Certificate of Acceptance and is marked in accordance with Section 6 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The acceptance and delivery of the Units shall not relieve the Builder of any of its warranties and indemnities made to the Lessor and Lessee in the Warranty Agreement between the Builder and the Lessee dated September 1, 1978.

#### SECTION 4. RENTALS

The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one interim rental payment payable on January 1, 1979, and 180 consecutive monthly payments payable in advance on the first day of each month, commencing January 1, 1979, to and including December 1, 1993. In respect of each Unit subject to this Lease, (a) the interim rental payment shall be in the amount of \$8.83 for each Unit for each day elapsed from and including the date of delivery and acceptance of such Unit hereunder to but not including January 1, 1979 and (b) the 180 monthly rental payments shall each be in an amount equal to the applicable basic monthly rental thereafter set forth in Appendix B hereto for the applicable payment date.

In the event that Lessee exercises its first renewal option to extend the term of this Lease pursuant to Section 17 hereof, Lessee agrees to pay to Lessor during the First Extended Term, (as defined in Section 17 hereof) as rental for each Unit then subject to this Lease, 60 consecutive monthly payments payable in advance on the first day of each month, commencing January 1, 1994 to and including December 1, 1998. In respect of each Unit then subject to this Lease, the 60 monthly rental payments shall be in an amount equal to the then determined Fair Rental Value thereof (as defined in Section 17 hereof).

In the event that Lessee exercises its second renewal option to further extend the term of this Lease pursuant to Section 17 hereof, the Lessee agrees to pay the Lessor during the Second Extended Term (as defined in Section 17 hereof) as rental for each Unit then subject to this Lease, 60 consecutive monthly payments payable in advance on the first day of each month, commencing on January 1, 1999 to and including December 1, 2003. In respect of each Unit then subject to this Lease, the 60 monthly rental payments shall be in an amount equal to the then determined Fair Rental Value thereof (as defined in Section 17 hereof).

Lessee will pay to the extent legally enforceable, interest at the rate of 12% per annum upon rentals remaining unpaid after the same shall have become due and payable under any of the provisions of this Lease.

All payments to be made to Lessor shall be made at the office of Lessor at 200 South Michigan Avenue, Chicago, Illinois, or at such other place or places as shall be directed in writing by Lessor.

If any of the monthly rental payment dates referred to in this section is not a business day, the monthly rental payment otherwise payable on such date shall be payable on the next business day. The term "business day" as used in this Lease means a calendar day, excluding Saturday, Sunday and any other day on which banking institutions in Chicago, Illinois or Philadelphia, Pennsylvania are authorized or obligated to be closed.

The Lessee agrees to make each payment provided for herein as contemplated in the first three paragraphs of this section in immediately available funds at or prior to 11:00 A.M. in the city where such payment is to be made.

SECTION 5. TERM OF THE LEASE.

The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit and subject to the provisions of Sections 8, 14 and 17 hereof, shall terminate on December 31, 1993, the month in which the final payment of rent in respect thereof is due pursuant to Section 4 hereof.

The obligations of the Lessee hereunder (including but not limited to the obligations under Sections 7, 8, 11, 12 and 17 hereof and including Section 13 hereof to the extent attributable to conditions or events existing or occurring during the term of this Lease) shall survive the expiration of the term of this Lease, except as provided in Section 30 hereof.

SECTION 6. IDENTIFICATION MARKS.

The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto, or in the case of any Unit not there listed, such identification number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Pullman Leasing Company, Owner, Lessor" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's title to and property in such Unit and its rights under this Lease. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of the new number or numbers to be substituted therefor shall have been filed with the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Lessor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, that such filing, recordation and deposit will protect the Lessor's interests in such Units and that no filing, recording, deposit or giving of notice with or to any other government or agency thereof is necessary to protect the interests of the Lessor in such Units. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

Except as provided in this Section 6, the Lessee will not allow the name of any person to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

SECTION 7. GENERAL TAX INDEMNIFICATION.

All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, Federal or foreign taxes (other than any United States Federal income tax payable by the Lessor in consequence of the receipt of payments provided for herein and, to the extent that the Lessor 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 and value added taxes in lieu of such net income taxes up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business without apportionment to any other state and other than any state franchise tax which is not based on or measured by net income, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "impositions") hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor 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 Lessor or the interest of the Lessor 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 Lessor is required to contest such impositions as provided in this Section 7, and the non-payment thereof does not, in the reasonable opinion of the Lessor adversely affect the title, property or rights of the Lessor hereunder. The Lessee agrees to give the Lessor notice of such contest brought in Lessee's name within 30 days after institution thereof and the Lessor 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 Lessor directly and paid by the Lessor, the Lessee shall pay the Lessor on presentation of an invoice therefor if the Lessor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or the Lessee shall have approved the payment thereof, and the Lessor 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 Section 7.

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 Lessor in such Units, as shall be satisfactory to it or, where not so permitted, will notify the Lessor of such requirement and will prepare and deliver such reports to it 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 Lessor.

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 Section 7, 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 Section 7 in respect of which the Lessee would otherwise be required to make payments to the Lessor pursuant hereto, the Lessor 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 Lessor shall not be obligated to take any such action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein. The Lessee shall indemnify and hold the Lessor harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action taken by the Lessor or Lessee under this Section 7. The Lessee shall be entitled to any refund received by the Lessor 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 Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of the Lessee's performance of its duties under this Section 7. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit the Lessor'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 Section 7 shall be an amount sufficient to restore the Lessor 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 Lessor would have been in had such imposition not been imposed.

SECTION 8. PAYMENT FOR CASUALTY OCCURRENCES: INSURANCE.

In the event that any Unit of Equipment shall be or become worn out, lost, stolen, destroyed or irreparably damaged from any cause whatsoever during the term of this Lease or any renewal term hereof or prior to return of such Unit pursuant to Sections 15 or 18 hereof, or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of this Lease or during any renewal term hereof (such occurrences being hereinafter called "Casualty Occurrences"), the Lessee shall promptly and fully notify the Lessor with respect thereto. On the monthly rental payment date following such notification (each such date being hereinafter called a "Casualty Payment Date"), the Lessee shall pay to the Lessor a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of such Casualty Payment Date, plus the monthly rental in respect of such Unit accrued as of such rental payment date. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the Builder of such Unit), the Lessor shall be entitled to recover possession of such Unit.

In addition to the occurrences constituting a Casualty Occurrence under the preceding paragraph, if any Unit shall have been taken or requisitioned by the United States Government or any other governmental entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Lessor with respect thereto and pay the Lessor a sum equal to the Casualty Value, as hereinafter defined, of such Unit. Following such payment, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Value and any balance of such payments shall be the property of the Lessor. In the event such Unit shall be returned by the United States Government or by the governmental entity prior to the time the Lessee shall have been reimbursed by such application of condemnation payments in an amount equal to such Casualty Value, then the Lessee shall dispose of such Unit as agent for the Lessor and shall retain the proceeds of such disposition to the extent that the aggregate of the amounts so retained and the condemnation payments theretofore received by the Lessee shall equal such Casualty Value, and the balance of such proceeds shall be promptly paid to the Lessor. In the event such Unit shall be returned by the United States Government or by the governmental entity following the time the Lessee shall have been reimbursed by such application of condemnation payments in an amount equal to such Casualty Value, such Unit shall be returned by the Lessee to the Lessor in the manner provided in Section 18 hereof.

In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the preceding paragraph of this Section 8), all the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Lessor or the Lessee from the United States Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

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

If the date upon which the making of the payment by the Lessee in the first paragraph hereof in respect of any Unit shall be after the term of this Lease or any renewal term thereof, no rental for such Unit shall accrue after the end of such term or such renewal term.

The Casualty Value of each Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Purchase Price of such Unit as is set forth in Appendix C opposite the rental payment date on which payment in respect thereof is to be made, or if there is no such rental payment date, the last rental payment date; but in no event shall such amount be less than any amount actually received by the Lessee from another carrier with respect to such Unit under the then prevailing Code or Rules Governing the Settlement for Destroyed or Damaged Units adopted by the Association of American Railroads.

This Lease shall continue in full force and effect irrespective of the cause, place or extent of any damage, loss or destruction of any of the Units, the risk of which shall be borne by Lessee; provided, however, that this Lease shall terminate with respect to any Unit which is lost, stolen, destroyed or damaged beyond repair on the date Lessor shall receive payment of the amount required to be paid to it on account of such Unit under this Section 8.

Except as hereinabove in this Section 8 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee will at all times prior to the return of the Units to the Lessor at its own expense cause to be carried and maintained property and public insurance with respect to the Units. The Lessee will carry such insurance in such amounts, for such risks, with such deductibles and with such insurance companies as are satisfactory to the Lessor, and in any event consistent with prudent industry practice for railroads of a size comparable to the Lessee and at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units. The proceeds of any such insurance shall be payable to the Lessor and the Lessee as their respective interests may appear.

If the Lessor shall receive any insurance proceeds or condemnation payments in respect of Units suffering a Casualty Occurrence, the Lessor shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value, with respect to any Unit heretofore paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor; provided, however, that no default or Event of Default shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Units, to the Lessor. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which proceeds were paid has been fully repaired.

#### SECTION 9. REPORTS.

On or before March 31 in each year, commencing with the year 1979, the Lessee will furnish to the Lessor an accurate statement (a) setting forth as at the preceding December 31, the total number, description and identification numbers of all Units then leased hereunder, the total number, description and identification numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending repair (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request, (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by paragraph 1 of Section 6 hereof have been preserved or replaced and (c) further stating that the Lessee is in compliance under the Lease and has performed or has caused to be performed the required maintenance of the Units and that no Event of Default or event which with the lapse of time or notice or both would constitute an Event of Default has occurred during such year. The Lessor, at Lessor's 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 Lessor may request during the continuance of this Lease.

#### SECTION 10. DISCLAIMER OF WARRANTIES.

THE LESSOR DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Unit 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 Unit or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages, or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Unit. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

#### SECTION 11. LAWS AND RULES.

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

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

#### SECTION 12. MAINTENANCE.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, in accordance with the Interchange Rules of the Association of American Railroads and in the same condition as other similar Equipment owned or leased by the Lessee.

Except as set forth in Sections 11 and 12 hereof, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units and do not adversely and materially affect the value of the Units. The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with the third paragraph hereof.

Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit, (ii) in the course of ordinary maintenance of such Unit or (iii) which are required for the operation or use of such Unit by the Association of American Railroads or the Interstate Commerce Commission, the United States Department of Transportation or any other applicable regulatory body and which are not readily removable without causing material damage to such Unit, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance, shall immediately be vested in the Lessor.

#### SECTION 13. INDEMNIFICATION

The Lessee shall pay, and shall protect, indemnify and hold the Lessor harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against Lessor (including any and all liabilities, obligations, damages, costs, disbursements, expenses [including without limitation attorneys' fees and expenses of Lessor] relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units,

including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, non-delivery, lease, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof, (ii) any latent or other defects whether or not discoverable by the Lessor or the Lessee, (iii) any claim for patent, trademark or copyright infringement as to any component or accessory not on a Unit at the time of its delivery, (iv) any claim based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessor or the Lessee) or resulting or alleged to result from the condition of any thereof, or (vi) any violation or alleged violation of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof, except to the extent any such violation arises from the gross negligence or wilful misconduct of the Lessor. In case any action, suit or proceeding is brought against the Lessor in connection with any claim indemnified against hereunder, the Lessee may and upon the Lessor's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by the Lessor 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 the Lessor in connection with such action, suit or proceeding. In the event the Lessee is required to make any indemnification payment under this Section 13, the Lessee shall pay the Lessor an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States of America 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 Lessor), shall be equal to the amount of such payment. The Lessee and the Lessor agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Section 13 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of the Lessor in respect of the matter against which indemnity has been given. Any payments received by the Lessor from any person (except the Lessee) as a result of any matter with respect to which the Lessor has been indemnified by the Lessee pursuant to this Section 13 shall be paid

over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such matter. Nothing in this Section 13 shall constitute a guaranty by the Lessee of the residual value of any Unit or of any debt which may be incurred by the Lessor to finance its acquisition of the Units.

Without limiting Section 13, paragraph 1 hereof, the Lessee further agrees to indemnify, protect and hold harmless the Lessor 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 it or any user of the Units because of the use in or about the construction or operation of any of the Units of any article or 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 prompt notice to the Lessor of any claim known to the Lessee from which liability may be charged against the Builder hereunder. The Lessee shall provide such information as it may possess reasonably to enable the Builder to defend such claim.

The indemnities contained in this Section 13 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, except as provided in Section 30 hereof. None of the indemnities in this Section 13 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under the Lessor whether because of any claim paid or defense provided for the benefit thereof or otherwise. The indemnity contained in this Section 13 hereof shall not extend to any cause of action, suit, penalties, claim, demand judgment, liability, obligation, damage, cost, disbursement, or expense of any nature whatsoever imposed on, incurred by or asserted against the Lessor (a) caused by the willful misconduct or gross negligence of the Lessor, (b) resulting from acts or events with respect to any Unit of Equipment which commence after the possession of such Unit of Equipment has been redelivered to the Lessor in accordance with Section 18 hereof (unless resulting from acts or omissions of the Lessee while such Unit of Equipment is being stored by the Lessee in accordance with Section 18 hereof), (c) caused by the violation by the Lessor of any banking, investment, insurance or securities law, rule or regulation applicable to it (unless such violation shall be the result of any written misrepresentation, violation, or act of the Lessee), (d) arising from the breach of an express duty, obligation, representation or warranty of the Lessor made herein or in any of the documents related to the transactions contemplated hereby, (e) which is related to any lien, charge, security interest or other encumbrance which the Lessee is not required by Section 16 hereof to pay or discharge, or (f) which is otherwise expressly stated herein or in any of the other documents related to the transactions contemplated hereby to be borne by the Lessor.

SECTION 14. DEFAULT.

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

A. default shall be made in payment of any amount provided for in Sections 4, 8 or 17 hereof after the date such payment is due and payable and such default shall continue for 10 days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or the right to possession of any of the Units and shall fail or refuse to cause such assignment or transfer to be cancelled and to recover possession of such Units within 15 days after written notice from the Lessor to the Lessee demanding the same;

C. default shall be made in the observance or performance of any other covenant, agreement, term or provision on the part of the Lessee contained herein and such default shall continue for 30 days after written notice from the Lessor specifying the default and demanding that the same be remedied;

D. any representation or warranty made by the Lessee herein, or in any certificate or statement furnished by the Lessee to the Lessor proves untrue in any material respect as of the date of issuance or making thereof;

E. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

F. any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions

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

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

A. proceed by appropriate court action or actions either at law or in equity to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach hereof; or

B. by notice in writing to the Lessee, terminate this Lease, whereupon all rights of the Lessee to the use of the Units then subject hereto shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be located and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, its successors, sublessees or assigns, to use the Units for any purposes whatever, but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee, as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion shall specify: (i) a sum, with respect to each Unit, which represents (x) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit, such present

value to be computed on the basis of a 6.46% per annum discount, compounded monthly from the respective dates upon which rental would have been payable hereunder had this Lease not been terminated over the then present value of the rental which the Lessor reasonably estimates to be obtainable for such Unit during such period, such present value to be computed on the basis of a 6.46% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (y) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental or (ii) 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 Lessor reasonably estimates to be the sale value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause of this subpart (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit as of the Casualty Payment Date on or next preceding the date of termination over the net proceeds of such sale.

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

The failure of the Lessor to exercise any of or all 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 the Lessor promptly upon any responsible officer becoming aware of any condition which constituted

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

SECTION 15. RETURN OF UNITS UPON DEFAULT.

If this Lease shall terminate pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and shall have attached or affixed thereto any special device considered an accession thereto as provided in Section 12 hereof and shall have removed therefrom at the Lessee's expense any addition, modification or improvement which, as provided in Section 12 hereof, is owned by the Lessee. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own expense and risk:

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

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

(c) cause the same to be transported to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application of any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific

performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Units in good order and repair and will permit the Lessor or any person designated by it, including any prospective purchaser of any such Unit and the authorized representative or representatives of the Lessor or any such person, to inspect the same at their own risk. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall in addition pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the monthly rental rate as set forth in Appendix B hereof divided by 30 exceeds the actual earnings received by the Lessor on such Unit for each such day.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in the possession of such Unit at the time.

#### SECTION 16. ASSIGNMENT, POSSESSION AND USE.

All rights of Lessor under this Lease and in and to the Units may be assigned, transferred or otherwise disposed of by the Lessor, either in whole or in part with written notice to Lessee. In the event of any such assignment, transfer or other disposition in connection with the financing or refinancing of the purchase of the Units or any of them, this Lease and all of Lessee's rights under this Lease and all rights of any person, firm or corporation who claims or who may hereafter claim any rights under this Lease under or through Lessee are hereby made subject and subordinate to the rights of any assignee, trustee, or other holder of the legal title to the Units under any conditional sale agreements, agreements and assignments and/or equipment trust agreements covering the Units or any of them heretofore or hereafter created and entered into by Lessor, its successors or assigns, in the event of the occurrence of an event of default by Lessor under such agreement. Any sublease of the Units or any of them permitted under this Lease that is entered into by Lessee, its successors and assigns, shall contain language which expressly makes such sublease subject to the subordination contained in this Section 16.

So long as no Event of Default shall have occurred and be continuing, the Lessee shall be entitled to the possession and use of the Units on its own lines of railroad or lines over which it has

trackage rights, and upon connecting and other carriers but only in the usual interchange of traffic in the continental United States and Canada subject to all the terms and conditions of this Lease; but the Lessee shall not, except with the Lessor's prior written consent which shall not be unreasonably withheld, sublease, assign, or otherwise make any disposition of the rights to the possession and use of the Units. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any person which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or resulting from claims against the Lessor or the Builder not related to the ownership of the Units) on or with respect to any Unit, including any accession thereto, or the interest of the Lessor or the Lessee therein, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises.

Nothing in this Section 16 shall be deemed to restrict the right of the Lessee to assign or transfer its entire leasehold interest under this Lease to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease, but no such assignment or transfer shall release the Lessee from its obligations hereunder.

#### SECTION 17. RENEWAL AND PURCHASE OPTIONS.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than 180 days prior to the end of the original term of this Lease in respect of the Units still subject to this Lease, elect to extend such original term of this Lease in respect of any or all of the Units then covered by this Lease for one period of five years commencing on the scheduled expiration of such original term of this Lease,

(hereinafter referred to as the "First Extended Term".)

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 Rental Value (as defined in this Section 17) payable in advance in payments on the monthly anniversaries of the expiration of the original term and except as to the Casualty Value payable with respect to any Unit which shall be 20% of the Unit base price specified in Appendix A hereto.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than 180 days prior to the end of the First Extended Term of this Lease, elect to extend the term of this Lease in respect of any or all of the Units then covered by this Lease for one additional five year period commencing on the scheduled expiration of the First Extended Term of this Lease

(hereinafter referred to as "Second Extended Term".) 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 Rental Value" (as defined in this Section 17) payable in advance in monthly payments on the monthly anniversaries of the expiration of the First Extended Term and except as to the Casualty Value payable with respect to any Unit which shall be 20% of the Unit base price specified in Appendix A hereto.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than six months nor more than nine months prior to the end of the original term or any extended term of this Lease, elect to purchase any or all of the Units then covered by this Lease at a "Fair Market Purchase Price" (as defined in this Section 17) at the end of the then current term of this Lease.

Fair Rental Value and Fair Market Purchase Price shall be determined on the basis of, and shall be equal in amount to, the rental or purchase price, as the case may be, which would obtain in an arm's length transaction between an informed and willing lessee (other than a lessee currently in possession) or purchaser and an informed and willing lessor or seller, as the case may be, under no compulsion to lease or sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease or to exercise its purchase option, the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value or Fair Market Purchase Price of the Units, the same shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination thereof by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 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 appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Rental Value or Fair Market Purchase Price, as the case may be, of the Units within 90 days after his appointment. If the parties shall have appointed a single appraiser, the determination of the single appraiser appointed shall be final. 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 Rental Value and Fair Market Purchase Price and shall be in lieu of any judicial or other

procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

Upon payment of the purchase price of any Unit, pursuant to an election by the Lessee to purchase the Units, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without warranties) for such Unit such as will transfer to the Lessee title to such Unit, free and clear of all liens, security interests and other encumbrances arising through the Lessor.

#### SECTION 18. RETURN OF UNITS UPON EXPIRATION OF TERM

As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit, and in any event not later than 90 days thereafter, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee as the Lessor may reasonably designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months and transport the same upon disposition of such Unit, at any time within such three-month period, to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor at Lessor's expense, or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this Section 18 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction and (iii) have attached or affixed thereto any special device considered an accession thereto as provided in Section 12 hereof and have removed therefrom any such device not so considered an accession. During any such storage period the Lessee shall maintain the Unit in such manner as the Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units.

#### SECTION 19. RECORDING

The Lessee, at its own expense, will cause this Lease to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada (and will cause notice of such deposit to be given forthwith in the Canada Gazette) pursuant to Section 86 of the Railway Act of Canada. The Lessee in addition will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to its satisfaction, of its interests in the Units, or for the purpose of carrying out the intention of this Lease; and the Lessee will promptly furnish to the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor. This Lease shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

#### SECTION 20. INTEREST ON OVERDUE RENTALS.

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to interest at 12% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

#### SECTION 21. NON-DISCRIMINATION.

The clauses attached hereto as Appendix E are incorporated herein by reference and form a part hereof. Lessor agrees to comply with said clauses and certifies that it has developed and is maintaining an affirmative action program which complies with the requirements set forth in 49 Code of Federal Regulations Part 265 (January 24, 1977).

SECTION 22. LESSOR'S RIGHT TO PERFORM FOR THE LESSEE.

If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee perform or comply with such agreement, and the amount of the reasonable costs and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at 12.0% per annum, shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor against the Lessee hereunder.

SECTION 23. NOTICES.

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

- (a) if to the Lessor, at 200 South Michigan Avenue, Chicago, Illinois 60604, attention of Vice President Finance and Treasurer
- (b) if to the Lessee, at 1310 Six Penn Center Plaza, Philadelphia, Pennsylvania 19104, attention of Vice President and Treasurer

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

SECTION 24. SEVERABILITY.

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

SECTION 25. EFFECT AND MODIFICATION OF LEASE.

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

SECTION 26. THIRD PARTY BENEFICIARIES.

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

SECTION 27. EXECUTION.

This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

SECTION 28. LAW GOVERNING.

The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any Assignment hereof shall be filed, recorded or deposited. The Lessor warrants that its principal place of business is located in the State of Illinois.

SECTION 29. AGREEMENTS FOR BENEFIT OF LESSOR'S ASSIGNS.

All rights of the Lessor hereunder (including, but not limited to, its rights under Sections 7, 8, 10, 13, 14, 15 and 18 and the right to receive the rentals payable under this Lease) shall inure to the benefit of Lessor's assigns.

SECTION 30. TERMINATION.

If during the period of this Lease or any extension thereof, the Lessee shall lose its right to possess and use the Units pursuant to the terms of this Lease as a result of (1) an event of default by Lessor or any other party under any assignment or agreement made in connection with the financing or refinancing of the purchase of the Units or any of them or (2) any patent infringement for which the Lessee

is indemnified pursuant to the Warranty Agreement between the Builder and the Lessee dated as of September 1, 1978, this Lease shall terminate without further action on the part of the Lessee or the Lessor and the Lessee shall thereupon be relieved of any and all obligations, indemnities, and liabilities of any nature whatsoever under this Lease, notwithstanding any provisions contained in this Lease to the contrary.

SECTION 31. TAX INDEMNIFICATION.

Lessee will not claim depreciation or investment tax credit with respect to the Equipment. Lessee will represent and warrant that use of the equipment outside of the United States will be de minimis. Lessee will indemnify Lessor after delivery and acceptance of the equipment against loss of investment tax credit and accelerated depreciation caused by acts of commission or omission of Lessee.

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

PULLMAN LEASING COMPANY

ATTEST:

William O. O'Brien  
Assistant Secretary

By O. R. Hendy  
Vice President

CONSOLIDATED RAIL CORPORATION

ATTEST:

Z. P. DeSantis  
Assistant Secretary

By R. P. H.



APPENDIX A TO LEASE

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Builder's Specifi- cations</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessor's Identification Numbers</u>	<u>Lessee's Identification Numbers</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
100-ton steel welded and riveted triple open hopper cars	HT	#3705 dated July 18, 1977, as amended	Butler, PA	1,000	PLCX	CR 489801-490800 Inclusive	\$30,593.35	\$30,593,350.00	September thru December 1978, at Butler, PA

APPENDIX B TO LEASE

Basic Lease Rate  
for Monthly  
Rental Payments

Per Unit  
Monthly Rental

January 1, 1979  
through December 1, 1993

\$265.00  
Per Unit, Per Month

APPENDIX C TO LEASE  
Casualty Values

(1)

<u>PAYMENT DATES</u>	<u>PERCENTAGE*</u>	<u>PAYMENT DATES</u>	<u>PERCENTAGE</u>
January 1, 1979	100.33	January 1, 1982	105.22
February 1, 1979	101.13	February 1, 1982	105.15
March 1, 1979	101.41	March 1, 1982	105.04
April 1, 1979	101.70	April 1, 1982	104.93
May 1, 1979	102.01	May 1, 1982	97.70
June 1, 1979	102.32	June 1, 1982	97.59
July 1, 1979	102.58	July 1, 1982	97.45
August 1, 1979	102.85	August 1, 1982	97.31
September 1, 1979	103.07	September 1, 1982	97.14
October 1, 1979	103.30	October 1, 1982	96.96
November 1, 1979	103.53	November 1, 1982	96.79
December 1, 1979	103.71	December 1, 1982	96.58
January 1, 1980	103.90	January 1, 1983	96.37
February 1, 1980	104.10	February 1, 1983	96.17
March 1, 1980	104.24	March 1, 1983	95.92
April 1, 1980	104.39	April 1, 1983	95.68
May 1, 1980	104.55	May 1, 1983	95.43
June 1, 1980	104.72	June 1, 1983	95.18
July 1, 1980	104.84	July 1, 1983	94.91
August 1, 1980	104.97	August 1, 1983	94.63
September 1, 1980	105.05	September 1, 1983	94.32
October 1, 1980	105.14	October 1, 1983	93.91
November 1, 1980	105.24	November 1, 1983	93.70
December 1, 1980	105.29	December 1, 1983	93.36
January 1, 1981	105.35	January 1, 1984	93.03
February 1, 1981	105.41	February 1, 1984	92.69
March 1, 1981	105.43	March 1, 1984	92.35
April 1, 1981	105.45	April 1, 1984	92.00
May 1, 1981	105.48	May 1, 1984	84.53
June 1, 1981	105.51	June 1, 1984	84.18
July 1, 1981	105.50	July 1, 1984	83.83
August 1, 1981	105.50	August 1, 1984	83.48
September 1, 1981	105.45	September 1, 1984	85.12
October 1, 1981	105.41	October 1, 1984	82.76
November 1, 1981	105.38	November 1, 1984	82.40
December 1, 1981	105.30	December 1, 1984	82.04

\*Section 8 of this Lease defines the "Casualty Value" of each Unit in terms of the percentage of the "Purchase Price" as is set forth in this Appendix C. For the purposes of such calculation and this Appendix C, the "Purchase Price" shall be deemed to be the "Unit Base Price" set forth in Appendix A to this Lease.

APPENDIX C TO LEASE  
Casualty Values

(2)

<u>PAYMENT DATES</u>	<u>PERCENTAGE</u>	<u>PAYMENT DATES</u>	<u>PERCENTAGE</u>
January 1, 1985	81.67	January 1, 1988	59.65
February 1, 1985	81.30	February 1, 1988	59.19
March 1, 1985	80.93	March 1, 1988	58.73
April 1, 1985	80.55	April 1, 1988	58.26
May 1, 1985	80.18	May 1, 1988	57.79
June 1, 1985	79.80	June 1, 1988	57.32
July 1, 1985	79.41	July 1, 1988	56.85
August 1, 1985	79.03	August 1, 1988	56.38
September 1, 1985	78.64	September 1, 1988	55.90
October 1, 1985	78.25	October 1, 1988	55.42
November 1, 1985	77.86	November 1, 1988	54.93
December 1, 1985	77.47	December 1, 1988	54.45
January 1, 1986	77.07	January 1, 1989	53.96
February 1, 1986	76.67	February 1, 1989	53.47
March 1, 1986	76.27	March 1, 1989	52.97
April 1, 1986	75.86	April 1, 1989	52.48
May 1, 1986	68.33	May 1, 1989	51.98
June 1, 1986	67.92	June 1, 1989	51.48
July 1, 1986	67.51	July 1, 1989	50.97
August 1, 1986	67.09	August 1, 1989	50.47
September 1, 1986	66.68	September 1, 1989	49.96
October 1, 1986	66.26	October 1, 1989	49.45
November 1, 1986	65.83	November 1, 1989	48.94
December 1, 1986	65.41	December 1, 1989	48.42
January 1, 1987	64.98	January 1, 1990	47.90
February 1, 1987	64.55	February 1, 1990	47.38
March 1, 1987	64.12	March 1, 1990	46.86
April 1, 1987	63.68	April 1, 1990	46.33
May 1, 1987	63.25	May 1, 1990	45.80
June 1, 1987	62.81	June 1, 1990	45.27
July 1, 1987	62.36	July 1, 1990	44.73
August 1, 1987	61.92	August 1, 1990	44.20
September 1, 1987	61.49	September 1, 1990	43.66
October 1, 1987	61.02	October 1, 1990	43.12
November 1, 1987	60.57	November 1, 1990	42.57
December 1, 1987	60.11	December 1, 1990	42.03

APPENDIX C TO LEASE  
Casualty Values

(3)

<u>PAYMENT DATES</u>	<u>PERCENTAGE</u>
January 1, 1991	41.48
February 1, 1991	40.93
March 1, 1991	40.37
April 1, 1991	39.82
May 1, 1991	39.26
June 1, 1991	38.69
July 1, 1991	38.13
August 1, 1991	37.56
September 1, 1991	36.99
October 1, 1991	36.42
November 1, 1991	35.85
December 1, 1991	35.27
January 1, 1992	34.69
February 1, 1992	34.11
March 1, 1992	33.52
April 1, 1992	32.94
May 1, 1992	32.35
June 1, 1992	31.75
July 1, 1992	31.16
August 1, 1992	30.56
September 1, 1992	29.96
October 1, 1992	29.36
November 1, 1992	28.76
December 1, 1992	28.15
January 1, 1993	27.54
February 1, 1993	26.93
March 1, 1993	26.31
April 1, 1993	25.69
May 1, 1993	25.07
June 1, 1993	24.45
July 1, 1993	23.83
August 1, 1993	23.20
September 1, 1993	22.62
October 1, 1993	22.03
November 1, 1993	21.42
December 1, 1993	21.09
January 1, 1994 and thereafter	20.00

APPENDIX D TO LEASE

CERTIFICATE OF INSPECTION AND ACCEPTANCE  
UNDER LEASE OF RAILROAD EQUIPMENT DATED  
AS OF SEPTEMBER 1, 1978

TO: PULLMAN LEASING COMPANY  
200 S. Michigan Avenue  
Chicago, Illinois 60604

I, the duly appointed and authorized representative of Consolidated Rail Corporation (hereinafter called the Lessee) under the Lease of Railroad Equipment dated as of September 1, 1978, between Pullman Leasing Company and the Lessee, do hereby certify that I have inspected, approved, and accepted delivery of, on behalf of the Lessee under the Lease of Railroad Equipment, the following items of Equipment:

TYPE OF EQUIPMENT: 100-ton steel welded and riveted  
triple open top hopper cars

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED:

I do further certify that the foregoing items of Equipment are in good operating order and condition, and appear to conform to the specifications, requirements and standards applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all applicable interchange requirements and specifications and standards recommended by the Association of American Railroads.

I do further certify that each of the foregoing items of Equipment has been marked by means of a stencil printed in contrasting colors upon each side of each Unit of Equipment in letters not less than one inch in height as follows:

"PULLMAN LEASING COMPANY, Owner, Lessor"

The execution of this Certificate will in no way relieve or decrease the responsibility of the Builder named below for the warranties it has made with respect to the Equipment.

BUILDER:  
Pullman Incorporated  
(Pullman Standard Division)

Inspector and Authorized Representative of  
Consolidated Rail Corporation

APPENDIX E TO LEASE

Nondiscrimination Clauses

1. Definitions

As used in this appendix:

- (a) "Act" means the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. No. 94-210).
- (b) "Administrator" means the Federal Railroad Administrator or his delegate.
- (c) "Affirmative action program" means the program described in Sections 265.9, 265.11, 265.13, and 265.15 of 49 CFR Part 265.
- (d) "Agency" means the Federal Railroad Administration.
- (e) "Lease Contract" means a lease agreement between Consolidated Rail Corporation ("Conrail") and a Lessor in connection with a project, program or activity of Conrail funded in whole or in part, directly or indirectly from financial assistance under the Rail Acts.
- (f) "Lessor" means a lessor who will be paid in whole or in part directly or indirectly from financial assistance under the Rail Acts.
- (g) "Minority" means women, Blacks, Hispanic Americans, American Indians, American Eskimos, American Orientals and American Aleuts.
- (h) "Rail Acts" means the Act and the provisions of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Rail Passenger Service Act (45 U.S.C. 501 et seq.) amended by the Act.

2. As a condition to the award of this Lease Contract, Lessor hereby agrees to observe and comply with the following:

(i) No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, or denied the benefits of, or be subjected to discrimination under, any Lease Contract.

3. A Lessor under any Lease Contract to which these clauses apply shall not, directly or through contractual or other arrangements, on the ground of race, color, national origin or sex:

(A) Deny a person any service, financial aid, or other benefit provided under such Lease Contract.

(B) Provide any service, financial aid, or other benefit which is different, or is provided in a different manner, from that provided to others under such Lease Contract.

(C) Subject a person to segregation or separate treatment in any matter related to his receipt of any service, financial aid or other benefit under such Lease Contract.

(D) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid or other benefit under such Lease Contract.

(E) Deny a person an opportunity to participate in such Lease Contract through the provision of services or otherwise afford him an opportunity to do so which is different from that afforded others under such Lease Contract.

4. A Lessor, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such Lease Contract or the class of persons to whom, or the situations to which such services, financial aid, other benefits, or facilities will be provided under any such Lease Contract, or the class of persons to be afforded an opportunity to participate in any such Lease Contract shall not directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the Lease Contract with respect to individuals of a particular race, color, national origin or sex.

5. In determining the site or location of facilities, a Lessor shall not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any Lease Contract to which these clauses apply on the grounds of race, color, national origin or sex, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of these clauses.
6. The Lessor shall not discriminate against any employee or applicant for employment because of race, color, national origin or sex. Except as otherwise required by the regulations or orders of the Administrator, the Lessor shall take affirmative action to insure that applicants for employment are employed, without regard to their race, color, national origin or sex. Such action shall include, but not be limited to the following: employment, promotion, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Lessor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency's representative setting forth the provisions of these nondiscrimination clauses. The Lessor understands and agrees that it shall not be an excuse for the Lessor's failure to provide affirmative action that the labor organizations with which the Lessor has a collective bargaining agreement failed or refused to admit or qualify minorities for admission to the union, or that the provisions of such agreements otherwise prevent Lessor from implementing its affirmative action program.
7. The Lessor shall not discriminate against any business organization in the award of any contract because of race, color, national origin or sex of its employees, managers or owners. Except as otherwise required by the regulations or orders of the Administrator, the Lessor shall take affirmative action to insure that business organizations are permitted to compete and are considered for awards of contracts without regard to race, color, national origin or sex.
8. As used in these clauses, the services, financial aid, or other benefits provided under a Lease Contract, under the Rail Acts include any service, financial aid, or other benefit provided in or through a facility funded through financial assistance provided under the Rail Acts.
9. The enumeration of specific forms of prohibited discrimination does not limit the generality of the prohibition in paragraph (2)(i) of this appendix.

10. These clauses do not prohibit the consideration of race, color, national origin or sex if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in Lessor's operations or activities on the grounds of race, color, national origin or sex. Where prior discriminatory or other practice or usage tends, on the grounds of race, color, national origin or sex, to exclude individuals or businesses from participation in, to deny them the benefits of, or to subject them to discrimination under any Lease Contract to which these clauses apply, the Lessor must take affirmative action to remove or overcome the effects of the prior discriminatory practice or usage. Even in the absence of prior discriminatory practice or usage to which 49 CFR Part 265 applies, the Lessor is expected to take affirmative action to insure that no person is excluded from participation in or denied the benefits of the Lease Contract on the grounds of race, color, national origin or sex, and that minorities and minority businesses are afforded a reasonable opportunity to participate in employment and procurement opportunities that will result from financial assistance provided under the Rail Acts.
11. The Lessor agrees to take such actions as are necessary to monitor its activities and those of its contractors who will be paid in whole or in part with funds provided by the Rail Acts or from obligations guaranteed by the Administrator pursuant to the Rail Acts in order to carry out affirmatively the purposes of paragraph (2) above, and to implement the affirmative action program developed and implemented pursuant to 49 CFR 265.
12. The Lessor shall, in all advertisements for employees, or solicitations for services or materials from business organizations placed by or on behalf of the Lessor in connection with any Lease Contract funded in whole or in part with financial assistance under the Rail Acts, state that all applicants for employment will receive consideration for employment, and all business organizations will receive consideration for an award of a contract, without regard to race, color, national origin or sex.
13. The Lessor shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the Agency's representative, advising the labor organization or workers' representative of the Lessor's commitments under section 905 of the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
14. The Lessor shall comply with all provisions of section 905 of the Act, the Civil Rights Act of 1964, any other Federal civil rights act, and with the rules, regulations and orders issued under such acts.

15. The Lessor shall furnish all information and reports required by the rules, regulations, and orders of the Administrator, and will permit access to its books, records, and accounts by the Administrator for purposes of investigation to ascertain compliance with rules, regulations, and orders referred to in paragraph 14 hereof.
16. The Lessor shall furnish such relevant procurement information as may be requested by the Minority Business Resource Center of the Agency. Upon the request of the Lessor the Center shall keep such information confidential to the extent necessary to protect commercial or financial information or trade secrets to the extent permitted by law.
17. In the event of the Lessor's noncompliance with the nondiscrimination clauses of this agreement, or with the provisions of section 905 of the Act, the Civil Rights Act of 1964, or with any other Federal civil rights act, or with any rules, regulations, or orders issued under such acts, this Lease Contract will, after notice of such noncompliance, and after affording a reasonable opportunity for compliance, be cancelled, terminated, or suspended in whole or in part.
18. The Lessor shall not enter into any contract or contract modification whether for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, or for construction, in connection with a Lease Contract with a contractor debarred from or who has not demonstrated eligibility for Federal or federally assisted contracts, and will carry out such sanctions and penalties for violation of this part as may be imposed upon contractors and subcontractors by the Administrator or any other authorized Federal official. The Lessor shall insure that the clauses required by 41 CFR Sec. 60-1.4(b) implementing Executive Order No. 11246 will be placed in each non-exempt federally assisted construction contract.
19. The Lessor agrees to comply with and implement the written affirmative action program established pursuant to section 265.11 of Title 49 CFR.
20. The Lessor agrees to notify the Administrator promptly of any law suit or complaint filed against the Lessor alleging discrimination on the basis of race, color, national origin or sex.
21. The Lessor shall include the preceding provisions of paragraphs (1) through (20) in every contract or purchase order, whether for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, or for construction relating to a Lease Contract. The Lessor will take such action with respect to any such contract or purchase order as the Administrator

direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Lessor becomes involved in, or is threatened with litigation with a contractor or vendor as a result of such direction by the Administrator, the Lessor may request the United States to enter into such litigation.

22. Lessor shall require, as a condition to the award of a contract of \$50,000 or more in connection with this Lease Contract, that the contractor furnish a certificate that a written affirmative action program meeting the requirements of 49 CFR Part 265 has been developed and is being maintained.