

CONRAIL

RECORDATION NO. 9661 Filed & Recorded

AUG 28 1978 3 30 PM

INTERSTATE COMMERCE COMMISSION

August 28, 1978

RECORDATION NO. 9661 Filed & Recorded

AUG 28 1978 3 30 PM

INTERSTATE COMMERCE COMMISSION

Robert L. Oswald, Secretary
Interstate Commerce Commission
12th and Constitution Avenue
Washington, D. C. 20423

Dear Mr. Oswald:

Pursuant to Section 20c of the Interstate Commerce Act and as provided by Volume 49 Code of Federal Regulations Sections 1116.1 through 1116.4 we present the following documents for recordation.

1. Lease of Railroad Equipment, dated as of January 2, 1978.

Lessor: Manufacturers National Bank of Detroit
as Trustee of Conrail 1978 Trust No. I
100 Renaissance Center
Detroit, Michigan 48243

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

2. Revolving Loan Agreement, dated as of January 2, 1978.

Borrower: Conrail 1978 Trust No. II,
Manufacturers National Bank of Detroit, as
Trustee
100 Renaissance Center
Detroit, Michigan 48243

Lenders: First Pennsylvania Bank N.A.
First Pennsylvania Tower
Center Square Building
Philadelphia, Pennsylvania 19101

RECORDATION NO. 9661-A Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 9661-B Filed & Recorded

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RECORDATION NO. 9661-D Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

RECEIVED
FEBRUARY 28 3 25 PM '78
OPERATION BR.

RECORDATION NO. 9661-E
AUG 28 1978 3 30 PM
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 9661-F
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INTERSTATE COMMERCE COMMISSION

8-240A368

DATE AUG 28 1978
FCS

ICC Washington, D. C.

Jeffrey R. Zettemoyer
Counterspart

Central National Bank of Cleveland
800 Superior Avenue
Cleveland, Ohio 44114

The Fidelity Bank
Broad and Walnut Streets
Philadelphia, Pennsylvania 19106

3. Assignment and Security Agreement, dated as of January 2, 1978.

Borrower: Conrail 1978 Trust No. II

Lenders: First Pennsylvania Bank N. A.

Central National Bank of Cleveland

The Fidelity Bank

4. Consent to Assignment and Security Agreement.

Consent By: Consolidated Rail Corporation

5. Assignment of Purchase Order, dated as of January 2, 1978.

Assignor: Consolidated Rail Corporation

Assignee: Manufacturers National Bank of Detroit, as Trustee

6. Consent to Assignment of Purchase Order, dated as of January 2, 1978.

Consent By: Berwick Forge and Fabricating
Division of Whittaker Corporation
P. O. Box 188
West 9th Street
Berwick, Pennsylvania 18603

7. Letter of Amendments

Executed By: All the parties of the various
documents listed above

The Equipment covered by this transaction is:

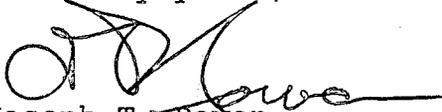
<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>No. of Units</u>	<u>Marked</u>	<u>Numbers Inclusive</u>
Box Cars	XP	162	Conrail	223301-223462

Enclosed is our check for \$200 to cover the recordation fee.
On March 31, 1978, I filed a similar group of documents

(Recordation Nos. 9302-9302E) and you calculated the recordation fee as \$200 at that time. The enclosed documents have not been previously recorded with the Interstate Commerce Commission.

After recording a counterpart original of these documents, please return the remaining copies, stamped with your recordation number to the individual presenting them for recordation. Thank you for your assistance.

Sincerely yours,



Joseph T. Rowan
Corporate Counsel

JTR/pe
Enclosures

3/10/78
3/27/78
5/23/78
7/18/78
8/22/78

RECORDATION NO. 9561-A
Filed & Recorded
AUG 28 1978 3:30 PM
STATE COMMERCE COMMISSION

REVOLVING LOAN AGREEMENT

THIS REVOLVING LOAN AGREEMENT, dated as of January 2, 1978, but executed and delivered on August 23, 1978, by and among CONRAIL 1978 TRUST NO. II (the "Borrower"), FIRST PENNSYLVANIA BANK N.A. (the "Agent Bank"), CENTRAL NATIONAL BANK OF CLEVELAND and THE FIDELITY BANK (the foregoing banks, including the Agent Bank, being hereinafter sometimes referred to individually as a "Bank" and collectively as the "Banks"),

W I T N E S S E T H:

Background. The Borrower is a trust, established under the Trust Agreement (as hereinafter defined), of which MANUFACTURERS NATIONAL BANK OF DETROIT is trustee (hereinafter referred to as the "Trustee") and FORD MOTOR CREDIT COMPANY, THE BUDD LEASING CORP. and GOULD LEASING INC. are the beneficiaries (hereinafter referred to individually as a "Beneficiary" and collectively as the "Beneficiaries").

The Borrower, as lessor, has entered into the Lease (as hereinafter defined) with ConRail (as hereinafter defined), as lessee, the Lease covering the Equipment (as hereinafter defined). The Borrower has requested that the Banks lend it up to \$5,468,450 to be used, together with the Investment (as hereinafter defined), to purchase the Equipment

and pay the Transaction Costs (as hereinafter defined), and the Banks are willing to do so on the following terms and conditions.

NOW, THEREFORE, in consideration of the promises herein contained, and each intending to be legally bound hereby, the parties agree as follows:

SECTION I. DEFINITIONS.

When used herein:

1.01 "Acceptance Certificate" means a duly executed certificate in the form of Exhibit A, attached hereto and made a part hereof, with appropriate insertions.

1.02 "Assignment and Security Agreement" means a duly executed assignment and agreement, substantially in the form of Exhibit B, attached hereto and made a part hereof, with appropriate insertions.

1.03 "Assignment of Purchase Order" means a duly executed assignment, substantially in the form of Exhibit C, attached hereto and made a part hereof, with appropriate insertions.

1.04 "Authorized Agreements" means the Participation Agreement, the Lease, the Assignment and Security Agreement, the Assignment of Purchase Order and this Agreement.

1.05 "Box Cars" means those certain 162 (or fewer) high roof, cushioned underframe, multi-purpose box cars more fully described in Schedule I to the Assignment and Security Agreement.

1.06 "Builder" means Whittaker Corporation (Berwick Forge and Fabricating Division), the manufacturer of the Box Cars.

1.07 "Builder's Delivery Certificate" means a duly executed certificate in the form of Exhibit D, attached hereto and made a part hereof, with appropriate insertions.

1.08 "Business Day" means any day on which both the Agent Bank and the Trustee are open for business.

1.09 "Closing" means any, and includes all, of the First Closing, the Subsequent Closings and the Final Closing.

1.10 "Collateral" means the property so designated in Section 1 of the Assignment and Security Agreement.

1.11 "ConRail" means the Consolidated Rail Corporation, a corporation: (A) organized pursuant to the provisions of the Regional Rail Reorganization Act of 1973, 45 U.S.C.A. § 701, et seq.; and (B) existing under the Laws of the Commonwealth of Pennsylvania, with its principal offices and its chief place of business at Six Penn Center Plaza, Philadelphia, Pennsylvania 19104.

1.12 "Consent to Assignment and Security Agreement" means a duly executed consent, substantially in the form of Exhibit E, attached hereto and made a part hereof, with appropriate insertions.

1.13 "Consent to Assignment of Purchase Order" means a duly executed consent, substantially in the form of Exhibit F, attached hereto and made a part hereof, with appropriate insertions.

1.14 "Cost of Equipment" means the aggregate of: (A) all amounts paid for the Equipment pursuant to the Invoices (as defined in the Participation Agreement); and (B) the Transaction Costs, but not more than \$8,413,000.

1.15 "Delivery Date" means any, and includes all, of the First Delivery Date, the Subsequent Delivery Dates and the Final Delivery Date.

1.16 "Equipment" means the Box Cars, together with all parts, fittings, accessions, accessories, special tools and additions thereto, subject to ConRail's rights under §9 of the Lease.

1.17 "Event of Default" means an event specified in Paragraph 6.01.

1.18 "Final Closing" means the Closing held on October 10, 1978, or January 10, 1979, as the case may be, as provided by Paragraph 2.02(B).

1.19 "Final Delivery Date" means the date on which the Builder delivers, and ConRail accepts, the last item of Equipment, which date shall be no later than December 31, 1978.

1.20 "First Closing" means the Closing at which the Agent Bank makes the first disbursement of the Loan.

1.21 "First Delivery Date" means the date of delivery of the first item of any Equipment to ConRail by the Builder, and the acceptance of such Equipment by ConRail.

1.22 "Interim Notes" means duly executed notes in the form of Exhibit G, attached hereto and made a part hereof, with appropriate insertions.

1.23 "Investment" means the aggregate amounts contributed by the Beneficiaries toward the Cost of Equipment.

1.24 "Invoiced Purchase Price" means the price for the Equipment described as such in paragraph 1 of the Participation Agreement.

1.25 "Laws" means all ordinances, statutes, rules, regulations, orders, injunctions, writs or decrees of any government or political subdivision or agency thereof, or any court or similar entity established by any thereof.

1.26 "Lease" means that certain lease dated as of January 2, 1978, by and between the Trustee and ConRail, a copy of which is attached hereto as Exhibit H, and made a part hereof, as the same may from time to time be supplemented, amended or modified.

1.27 "Loan" means the loan to be made by the Banks to the Borrower, pursuant to this Agreement.

1.28 "Maximum Commitment" means, as to any Bank, the maximum aggregate amount such Bank is obligated to disburse hereunder, as specified in Paragraph 7.01.

1.29 "Notes" means the Interim Notes and the Replacement Notes.

1.30 "Obligations" means the obligation of the Borrower to pay the principal of and interest on the Notes in accordance with the terms hereof and to satisfy all of its other liabilities to the Banks under this Agreement, whether now existing or hereafter incurred, including any extensions, modifications, renewals thereof and substitutions therefor.

1.31 "Participation Agreement" means the agreement, dated as of January 2, 1978, by and among ConRail, the Banks, the Beneficiaries and the Trustee, a copy of which is attached hereto as Exhibit I and made a part hereof.

1.32 "Permitted Encumbrances" means:

- (A) Encumbrances in favor of the Banks;
- (B) ConRail's rights in and to the Equipment pursuant to the Lease;
- (C) Liens on the Equipment the existence of which is permitted by §6 of the Lease, but only so long as ConRail shall, with respect to such liens, comply with the requirements of such §6; and

(D) Rights of the Builder under the Purchase Order.

1.33 "Person" means any individual, corporation, partnership, association, joint-stock company, trust, unincorporated organization, joint venture, court or government or political subdivision or agency thereof.

1.34 "Proportionate Share" means, at any time and as to any Bank, the percentage derived by dividing: (A) the unpaid principal amount of the Loan owing to that Bank by the aggregate unpaid principal amount of the entire Loan; or (B) if none of the Loan has been disbursed, such Bank's Maximum Commitment by the aggregate Maximum Commitment of all Banks.

1.35 "Purchase Order" means the purchase order of ConRail with the Builder, a copy of which is attached hereto as Exhibit J, and is made a part hereof.

1.36 "Rates" means the respective rates of interest specified in Paragraphs 2.05 (A) and (B).

1.37 "Rentals" shall have the same meaning as is given such term in Section 3 of the Lease.

1.38 "Replacement Notes" means duly executed notes in the form of Exhibit K, attached hereto and made a part hereof, with appropriate insertions.

1.39 "Revolving Loan Commitment" means the commitment of the Banks to fund the Loan in accordance with the terms and conditions hereof.

1.40 "Revolving Loan Commitment Termination Date" means January 10, 1979.

1.41 "Subsequent Closing" means each Closing (other than the First Closing and the Final Closing) at which the Agent Bank makes a disbursement of the Loan.

1.42 "Subsequent Delivery Date" means any date, other than the First Delivery Date or the Final Delivery Date, on which the Builder delivers, and ConRail accepts, any item of Equipment.

1.43 "Transaction Costs" means, as of the Final Closing, the lesser of:

(A) \$70,000; or

(B) All of the costs (except for the internal costs of the parties to the Participation Agreement) incurred in the purchase and lease of the Equipment, including, but without limitation, an amount equal to the aggregate amount of the fees theretofore paid or then owing by the Borrower to: (a) Messrs. Schnader, Harrison, Segal & Lewis for their services in representing the Banks; (b) the Trustee for its services as Trustee under the Trust Agreement and for the services of its counsel; (c) Messrs. Sullivan & Cromwell for their services in representing the Beneficiaries; and (d) the Agent Bank for the commitment fee and agent's fee provided for by Paragraph 2.11.

1.44 "Trust Agreement" means the agreement, restated and amended as of February 15, 1978, and dated as of January 2,

1978, among the Trustee and the Beneficiaries, a copy of which is attached hereto as Exhibit L and made a part hereof.

SECTION II. THE LOAN.

2.01 Amount of the Loan. Subject to the terms hereof, the Banks, severally and not jointly, will lend the Borrower such sums as shall not exceed, in the aggregate principal amount, the sum of \$5,468,450.

2.02 Disbursement of the Loan.

(A) The Loan shall be disbursed by the Agent Bank paying directly:

(1) To the Builder (for the account of the Trustee), at each Closing, in immediately available federal funds, sixty-five percent (65%) of the Invoiced Purchase Price of Equipment to which such Closing pertains, and the remaining thirty-five percent (35%) of such Invoiced Purchase Price of Equipment shall be paid by the Trustee to the Builder pursuant to the provisions of the Participation Agreement; and

(2) To the appropriate parties, at the Final Closing, in immediately available federal funds, sixty-five percent (65%) of such respective portions of the Transaction Costs as to which such parties shall then be entitled, and the remaining thirty-five percent (35%) of such respec-

tive portions shall be paid by the Trustee to such parties pursuant to the provisions of Participation Agreement.

(B) Each Closing shall be held on the tenth day of a month (or if the tenth day of a month is not a Business Day, then on the next succeeding Business Day) following the calendar month in which Equipment is delivered by the Builder and accepted by ConRail and shall pertain to such Equipment only. The First Closing shall be held on the tenth day of the calendar month next following the First Delivery Date. Each Subsequent Closing shall be held on the tenth day of the calendar month next following a Subsequent Delivery Date. The Final Closing shall be held on October 10, 1978, if the Final Delivery Date has occurred on or before September 30, 1978, or on January 10, 1979, if the Final Delivery Date has occurred after September 30, 1978.

2.03 The Interim Notes. Each Bank's Proportionate Share of the total Revolving Loan Commitment shall be evidenced by an Interim Note in favor of such Bank. Amounts disbursed under the Interim Notes shall be evidenced by receipts therefor.

2.04 Replacement of the Interim Notes. At the Final Closing:

(A) The then entire outstanding principal

balance of the Loan made under the Interim Notes will be placed on a term loan basis;

(B) The Borrower will execute and deliver the Replacement Notes to the Agent Bank, in the respective principal amounts of each Bank's Proportionate Share of the principal amount of the Loan then outstanding under the Interim Notes;

(C) The Borrower will pay all interest then accrued on the Interim Notes; and

(D) Upon receipt of the Replacement Notes, the Agent Bank will return the Interim Notes to the Borrower.

2.05 Interest Rates.

(A) So long as no Event of Default shall have occurred and shall be continuing, interest on the principal amount of the Loan will be payable at the per annum rate of nine and one-half percent (9-1/2%).

(B) So long as any Event of Default shall have occurred and shall be continuing, interest on all Obligations the payment of which is past due will be payable at the per annum rate of ten and one-half percent (10-1/2%).

(C) Interest shall be calculated on the basis of a 360-day year of twelve thirty-day months.

(D) If, at any time, either of the Rates shall be deemed by any competent court of law, governmental agency or tribunal to exceed the maximum rate of in-

terest permitted by any applicable Laws, then, for such time as such Rate would be deemed excessive, application thereof shall be suspended and there shall be charged in lieu thereof the maximum rate of interest permissible under such Laws.

2.06 Payments of Principal and Interest. Each payment of interest on, or of principal of and interest on, the Loan shall be calculated by multiplying the respective percentages hereinafter set forth by the aggregate Cost of the Equipment to which such percentages pertain, as follows:

(A) With respect to that portion of the Loan applied toward the Cost of Equipment for Box Cars delivered to, and accepted by, ConRail on or before September 30, 1978:

(1) Interest only on such portion, in an amount equal to .017153% per day, shall be paid on October 10, 1978, for each day such portion is outstanding to, but not including, October 10, 1978;

(2) Eight (8) consecutive quarterly installments of interest only on such portion, each in an amount equal to 1.54375%, shall be paid commencing January 10, 1979; and

(3) Forty (40) consecutive quarterly combined installments of principal of and interest on such portion, each in an amount equal to 2.5351%, shall be paid commencing January 10, 1981.

(B) With respect to that portion of the Loan applied toward the Cost of Equipment for Box Cars delivered to, and accepted by, ConRail on or after October 1, 1978, but on or before December 31, 1978:

(1) Interest only on such portion, in an amount equal to .017153% per day, shall be paid on January 10, 1979, for each day such portion is outstanding to, but not including, January 10, 1979;

(2) Seven (7) consecutive quarterly installments of interest only on such portion, each in an amount equal to 1.54375%, shall be paid commencing April 10, 1979; and

(3) Forty (40) consecutive quarterly combined installments of principal of and interest on such portion, each in an amount equal to 2.5351%, shall be paid commencing January 10, 1981.

When the provisions of the foregoing paragraphs require two or more payments to be made on the same day, such payments shall be combined into one. The Borrower shall direct ConRail to prepare and deliver at the Final Closing a schedule setting forth the respective amounts of all of the foregoing payments that are to be made after the Final Closing and the respective dates on which they are to be made. If the tenth day of any month on which any such payment is to be made is not a Business Day, such payment shall be made on

the next succeeding Business Day.

2.07 Casualty Occurrence. If a Casualty Occurrence (as defined in Section 7 of the Lease) occurs, the unpaid principal of the Loan allocable to the unit or units of Equipment suffering such Casualty Occurrence shall become due and payable, without penalty or premium if paid when due, together with accrued interest thereon, if any, and the same shall be paid by the Borrower on the rental payment date on which the Casualty Value (as set forth in Section 7 of the Lease) is paid by ConRail pursuant to Section 7 of the Lease. Provided, however, that payments of principal of and interest on the Loan shall continue to be paid as provided in Paragraph 2.06 until payment of such Casualty Value, and, upon the making of such payment, the amount of the quarterly installments of interest or of principal and interest due after application of such payment shall be adjusted, so that the entire unpaid portion of principal of the Loan, and interest thereon, shall be paid in full by the payment of the remaining quarterly installments payable hereunder.

2.08 Prepayment. The Borrower may, without the payment of penalty or premium, prepay the Loan in whole or, from time to time, in part. All partial prepayments shall be applied against the principal element of the installments required by Paragraph 2.06, in the inverse order of the maturity thereof, and the interest element thereof shall be correspondingly adjusted.

2.09 Payment to the Agent Bank. So long as any of the Obligations shall remain unpaid, the Borrower shall direct ConRail to make all payments otherwise required to be made to the Borrower under the Lease (excluding payments pursuant to §6 and §9 of the Lease or the Tax Indemnity Agreement referred to in the Participation Agreement) directly to the Agent Bank in immediately available federal funds. The Agent Bank shall apply all such payments: first, to payment of accrued interest on the Loan to the date of such payment; second, to the payment of the principal amount of the Loan then due; and third, to other fees then due hereunder. After such application:

(A) If no Event of Default has occurred and is then continuing, any excess of such payments shall be paid promptly to the Borrower in immediately available federal funds; or

(B) If an Event of Default has occurred and is then continuing, any such excess may be retained by the

Agent Bank as further collateral for the Loan or may be deemed by the Banks to be a partial prepayment to be applied in the manner set forth in Paragraph 2.08.

If the Agent Bank shall fail to receive any Rentals when due, it shall give prompt notice of such failure to the Borrower.

2.10 Limitations of Liability: All payments of principal or interest and other payments to be made by the Borrower hereunder, under the Interim Notes and under the Replacement Notes shall be made only from payments under the Lease, as provided for in Paragraph 2.09, or from other income and proceeds of the Trust Estate (as defined in the Trust Agreement) and only to the extent that such payments, income and proceeds are sufficient to make such payments in accordance with the terms hereof, of the Interim Notes and of the Replacement Notes. The Banks agree that they will look solely to such payments, income and proceeds, and that neither the Trustee nor any Beneficiary is or shall be personally liable to the Banks for any amounts payable hereunder or under the Interim Notes and under the Replacement Notes, but, subject to and by virtue of the Assignment and Security Agreement, the Banks shall have all of the rights and remedies against ConRail that, except for such assignment, would have been available to the Borrower.

2.11 Commitment and Agent's Fees.

(A) From and after November 29, 1977, until the date of the Final Closing, the Borrower shall pay the Agent Bank a commitment fee of one-half percent (0.5%) per annum on the average daily undisbursed amount of the Revolving Loan Commitment during such period. This commitment fee shall be shared by all of the Banks in accordance with their respective Proportionate Shares; provided, however, that The Fidelity Bank shall not share in that portion of the commitment fee payable for the period November 29, 1977, through January 24, 1978, and Central National Bank of Cleveland shall not share in that portion of the commitment fee payable for the period November 29, 1977, through March 13, 1978.

(B) In addition to the foregoing commitment fee, the Borrower will pay the Agent Bank an agent's fee of \$23,500.

(C) Each of the foregoing fees shall be paid at the Final Closing.

SECTION III. CONDITIONS PRECEDENT.

The obligation of the Banks to make a disbursement of the Loan at any Closing is subject to the conditions precedent set forth below with respect to such Closing:

3.01 Conditions for the First Closing.

(A) On or before the First Delivery Date, the Agent Bank shall have received the following:

(1) A duly executed copy of the Lease, designated as the original thereof;

(2) The Assignment and Security Agreement;

(3) Proof, satisfactory to the Agent Bank, that the Authorized Agreements have been filed with the Interstate Commerce Commission;

(4) Acknowledgement copies of precautionary financing statements on Form UCC-1, filed by the Borrower with respect to the Equipment, showing ConRail as "debtor," the Borrower as "secured party" and the Agent Bank (as agent for the Banks) as "assignee", and duly stamped by the filing officer to show the office in which filed, the date and time of filing and the filing number;

(5) A duly executed copy of the Purchase Order;

(6) The Assignment of Purchase Order;

(7) The Consent to Assignment and Security Agreement;

(8) The Consent to Assignment of Purchase Order;

(9) An insurance certificate as required by §7 of the Lease;

(10) Acknowledgement copies of financing statements on Form UCC-1, filed with respect to the Banks' security interest in the Collateral, and duly stamped by the filing officer to show the office in which filed, the date and time of filing and the filing number;

(11) A duly executed copy of the Trust Agreement;

(12) A duly executed copy of the Participation Agreement;

(13) A certificate (dated the First Delivery Date) of the cashier or assistant cashier of the Trustee, as to the incumbency and signatures of the officers of the Trustee authorized to execute and deliver the Authorized Agreements;

(14) A certificate (dated the First Delivery Date) of an officer of the Trustee to the effect that:

(a) Neither the Trust nor the Trustee is in default under any of the Authorized Agreements; and

(b) The representations and warranties of the Borrower set forth in Paragraph 4.01 hereof are true and correct as of the First Delivery Date, as if made on such date;

(15) A certificate (dated the First Delivery Date) of an executive officer of ConRail to the effect that:

(a) ConRail is not in default under, and, to the knowledge of the signer of such certificate, there is no event which, with the passage of time, or the giving of notice, or both, would result in a default under the Participation Agreement, the Assignment of Purchase Order, the Lease or the Consent to Assignment and Security Agreement; and

(b) The representations and warranties of ConRail set forth in paragraph 3 of the Participation Agreement are true and correct as of the First Delivery Date, as if made on such date.

(16) An opinion of Messrs. Bodman, Longley & Dahling, counsel for the Trustee, substantially as set forth in Exhibit M, attached hereto and made a part hereof, or with such changes thereto as to which such counsel and the Agent Bank may agree;

(17) An opinion of Ronald Dietrich, Esquire, Vice President-Law of ConRail, substantially as set forth in Exhibit N, attached hereto and made a part hereof, or with such changes thereto as to which such counsel and the Agent Bank may agree;

(18) An opinion of Messrs. Sullivan & Cromwell, special counsel for the Beneficiaries, substantially as set forth in Exhibit O, attached hereto and made a part hereof, or with such changes thereto as to which such counsel and the Agent Bank may agree;

(19) An opinion of counsel for the Builder, substantially as set forth in Exhibit P, attached hereto and made a part hereof, or with such changes thereto as to which such counsel and the Agent Bank may agree;

(20) An Opinion of Messrs. Schnader, Harrison, Segal & Lewis, special counsel for the Banks, substantially as set forth in Exhibit Q, attached hereto and made a part hereof, or with such changes thereto as to which such counsel and the Agent Bank may agree.

(B) At the First Closing, the Agent Bank shall receive the following, all of which (other than the Interim Notes and the opinion referred to below) shall be with respect to the Equipment to which the First Closing pertains:

- (1) The Interim Notes;
- (2) Acceptance Certificates;
- (3) Builder's Delivery Certificates;
- (4) Copies of invoices from the Builder;
- (5) Copies of bills of sale from the
Builder; and

(6) An opinion of the counsel referred to in Paragraph 3.01(A)(19), dated the date of the First Closing, to the effect that, as of such date, the opinion delivered pursuant to the aforesaid paragraph remains true and correct.

3.02 Conditions for Each Subsequent Closing and the Final Closing.

(A) At each Subsequent Closing and the Final Closing, the Agent Bank shall receive the following, all of which (other than the Replacement Notes and the opinion referred to below) shall be with respect to the Equipment to which such Closing pertains:

(1) Such supplements to the documents referred to in Paragraphs 3.01(A) (2), (4) and (10) as shall, in the judgment of special counsel for the Banks, be necessary or desirable to perfect the Banks' security interest in the Equipment to which such Closing pertains;

(2) Acceptance Certificates;

(3) Builder's Delivery Certificates;

(4) Copies of invoices from the Builder;

(5) Copies of bills of sale from the

Builder; and

(6) An opinion of the counsel referred to in Paragraph 3.01(A)(19), dated the date of such Closing, to the effect that, as of such date, the opinion delivered pursuant to the aforesaid paragraph remains true and correct.

(B) In addition to the foregoing, at the Final Closing, the Agent Bank shall receive the Replacement Notes.

3.03 Conditions for all Delivery Dates: No unit of Equipment shall be delivered to, or accepted by, ConRail on any Delivery Date if:

(A) The documents required to be delivered pursuant to Paragraphs 3.01 and 3.02 on and with respect to such Delivery Date shall not have been delivered as required; or

(B) The Agent Bank, Trustee and Beneficiaries shall not have received on the tenth day of the most recent calendar month (including the then current calendar month if such Delivery Date shall occur on or after the eleventh day thereof) following the First Delivery Date, in form and substance satisfactory to each of them:

(1) An opinion of Ronald Dietrich, Esquire, Vice President-Law of ConRail, or such other counsel for ConRail as shall be acceptable to the Banks, dated as of such tenth day, confirming that, as of such date, the opinion set forth in Paragraph 3.01(17) hereof is correct;

(2) A certificate of an executive officer of ConRail, dated as of such tenth day, confirming that, as of such date, the certificate set forth in Paragraph 3.01(15) hereof is correct; and

(3) A certificate of an officer of the Trustee, dated as of such tenth day, confirming that, as of such date, the certificate set forth in Paragraph 3.01(14) hereof is correct; or

(C) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall have been filed by or against ConRail, 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); or

(D) Any other proceedings shall be commenced by or against the Borrower, the Trustee or ConRail for any relief which includes, or might result in, any modification of the obligations of the Borrower, the Trustee or ConRail under this Agreement, the Assignment and Security Agreement, the Lease, the Consent to Assignment and Security Agreement, or the Assignment of Purchase Order, 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 readjustment of the obligations of the Borrower, the Trustee or ConRail under the documents mentioned above in this Paragraph (D)), 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); or

(E) An Event of Default (either under this Agreement or the Lease) or any event which with the lapse of time or the giving of notice or both could constitute such an Event of Default shall have occurred and be continuing; or

(F) A material adverse change shall have occurred in ConRail's financial condition from that set forth in the Memorandum for Private Investors from ConRail, dated February 15, 1978, as supplemented by the First Supplement and Second Supplement thereto, dated April 26, 1978, and July 5, 1978, respectively.

3.04 Qualifications of Opinions of Counsel. In giving the opinions specified in this Section, each counsel may:

(A) Qualify its opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally; and

(B) In giving any opinion with respect to matters governed by the laws of jurisdictions other than those in which such counsel are qualified to practice, rely upon the opinions of other counsel, including other counsel giving the opinions hereunder, provided that they state that they believe such reliance is justified.

SECTION IV. REPRESENTATIONS AND WARRANTIES.

4.01 Original. To induce the Banks to enter into this Agreement, the Borrower represents and warrants to the Banks as follows:

(A) The address of the only place of business of the Borrower is as set forth in Paragraph 8.04(A) and the Borrower has never changed its name or had any other place of business;

(B) The making and performance of the Authorized Agreements will not (immediately, with the passage of time, or with the giving of notice and the passage of time):

(1) Violate any Laws as now in effect or violate or result in a default under any other contract, agreement or instrument to which the Borrower is a party or by which it or its property is bound; or

(2) Result in the creation or imposition of any security interest in, or lien or encumbrance upon, any of the Collateral, except Permitted Encumbrances;

(C) The Borrower has the power and authority to enter into and perform the Authorized Agreements and to incur the obligations herein and therein provided for, and has taken all proper and necessary action to authorize the execution, delivery and performance of the Authorized Agreements;

(D) Assuming due authorization and execution by the other parties thereto, the Authorized Agreements are valid, binding and enforceable against the Borrower, in accordance with their respective terms, except to the extent that enforceability may be limited by Laws affecting the rights of creditors generally;

(E) To the best of the Borrower's knowledge, it has good and marketable title to the Collateral, subject to no security interest, encumbrance or lien, or the claim of any third person, except Permitted Encumbrances;

(F) No consent, approval or authorization of, or filing, registration or qualification with, any Person is required to be obtained by the Borrower in connection with the execution and delivery of the Authorized Agreements or the undertaking or performance by the Borrower of any obligation hereunder or thereunder, or, if required, has been obtained.

4.02 Survival. All of the representations and warranties set forth in Paragraph 4.01 shall survive until all Obligations are satisfied in full.

SECTION V. THE BORROWER'S COVENANTS.

The Borrower does hereby covenant and agree with the Banks that, so long as any of the Obligations remain unsatisfied, it will comply with the following covenants:

5.01 Affirmative Covenants.

(A) The Borrower will use the Investment for the purposes set forth in Paragraph 2.02(A).

(B) The Borrower will notify the Agent Bank immediately if it has knowledge of the occurrence and continued existence of any Event of Default or of any fact, condition or event that, with the mere giving of notice or passage of time or both, could become an Event of Default. As used in this Paragraph (B), "knowledge" means actual knowledge of any officer or trust administrator assigned to the Trustee's corporate agencies department.

(C) The Borrower will notify the Agent Bank thirty (30) days in advance of any change in the location of its chief place of business.

(D) The Borrower will comply with each covenant, agreement, term or provision binding upon it under any of the Authorized Agreements.

5.02 Negative Covenants.

(A) The Borrower will not sell, transfer, lease (except to ConRail as provided by the Lease, or to the Beneficiaries pursuant to §10.02 of the Trust Agreement) or otherwise dispose of any part of the Collateral without the written consent of the Agent Bank, which consent shall not be unreasonably withheld.

(B) The Borrower will not mortgage, pledge, grant or permit to exist a security interest in or lien upon any of the Collateral, except Permitted Encumbrances.

SECTION VI. DEFAULT.

6.01 Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

(A) The Borrower shall fail to pay, or cause to be paid, when due, any installment of principal or interest on the Loan, and such failure shall continue for thirty-five (35) days;

(B) The Borrower shall fail to observe or perform any other obligation to be observed or performed by it hereunder, and such failure shall continue for thirty-five (35) days after written notice thereof from the Agent Bank;

(C) An Event of Default by ConRail under the Lease (including, but without limitation, an Event of Default resulting from the non-payment of Rentals) shall occur and continue uncured by ConRail or the Borrower for ninety (90) days;

(D) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against ConRail and:

(1) Such petition shall not be dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue); or

(2) All the obligations of ConRail under the Lease and the Consent to Assignment and Security Agreement shall not be and shall not continue to be duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within thirty (30) days after such appointment, if any, or sixty (60) days after such petition shall have been filed, whichever shall be earlier; or

(E) Any other proceeding shall be commenced by or against ConRail for any relief which includes, or might result in, any modification of the obligations of ConRail under the Lease and the Consent to Assignment and Security Agreement, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations); and

(1) Such proceedings shall not be dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue); or

(2) All the obligations of ConRail under the Lease and the Consent to Assignment and Security Agreement shall not be and shall not continue to be duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for ConRail or for its property, in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within thirty (30) days after such appointment, if any, or sixty (60) days after such proceedings shall have been commenced, whichever shall be earlier.

6.02 Acceleration. At the option of the Banks, upon notice to the Borrower, after the occurrence of any Event of Default, all Obligations shall immediately become due and payable (except such portion of the Obligations that constitutes interest on the Loan not earned as of the date on which all other Obligations are paid in full) without further action of any kind, and the Banks shall have, with respect to the Collateral, all rights and remedies provided for in the Assignment and Security Agreement.

SECTION VII. CONCERNING THE BANKS.

7.01 Maximum Commitments and Proportionate Shares.

(A) The Maximum Commitment and Proportionate Share of each Bank in the Loan shall be as follows:

<u>Bank</u>	<u>Maximum Commitment</u>	<u>Proportionate Share</u>
First Pennsylvania Bank N.A.	\$1,444,300	26.4%
Central National Bank of Cleveland	\$2,012,075	36.8%
The Fidelity Bank	\$2,012,075	36.8%

(B) The Agent Bank shall give each other Bank notice of its Proportionate Share of each disbursement requested by the Borrower, specifying the date on which funds shall be made available to the Borrower. Not later than 11:00 A.M., Philadelphia time, on the date specified, each other Bank shall make available to the Agent Bank, at its offices at First Pennsylvania Tower, Centre Square Building, Philadelphia, Pennsylvania 19101, federal funds in the amount required. Upon receipt from the Borrower or ConRail of each payment of principal of, or interest on, the Loan, or of any fees required hereunder, the Agent Bank shall promptly remit, in federal funds, to the other Banks, their respective Proportionate Shares of such payment or fees and, until doing so, shall hold all such Proportionate Shares in trust for the other Banks.

(C) The obligation of each Bank hereunder is several, and neither the Agent Bank nor any other Bank shall be responsible for the obligation and commitment of one another, nor will the failure of any Bank to perform any of its obligations in any way relieve the other Banks from the performance of their obligations.

7.02 Reliance by the Agent Bank. In acting as the Agent Bank hereunder, First Pennsylvania Bank N.A., and its directors, officers, employees, attorneys and agents shall be entitled to rely upon any certificate, document and other paper or oral instructions believed by its directors, officers, employees, attorneys and agents to be genuine and correct and to have been signed, sent or given by the proper Person or Persons and, in respect to legal matters, upon the opinion of counsel selected by the Agent Bank, and any action or failure to act in accordance with such reliance shall, in the absence of bad faith by the Agent Bank conclusively be deemed to have been proper. The Agent Bank shall not be responsible to the other Banks for any recitals, statements, warranties or representations herein, nor shall it be bound to ascertain or require the performance or observance of any of the terms of this Agreement.

7.03 Actions on Behalf of the Banks. In acting hereunder as the Agent Bank (including, but without limitation, the taking and holding of Collateral), First Pennsylvania Bank N.A. shall be acting for its own account and for the account of

(and as agent for) the other Banks to the extent of their respective Proportionate Shares.

7.04 Distribution of Funds Upon Default. In the event that all sums owing hereunder shall forthwith become due and payable as provided in Section VI, all sums and property then held by the Banks or any of them or received thereafter by the Banks or any of them, by voluntary payment or through exercise of the right of set-off, counterclaim, cross-action or otherwise, shall be shared by the Banks in accordance with their respective Proportionate Shares.

7.05 Payment by the Banks. Each other Bank agrees to pay to the Agent Bank such other Bank's Proportionate Share of the Agent Bank's expenses (other than Transaction Costs), to the extent that the Agent Bank shall not receive the same from the Borrower, ConRail or the proceeds of the Collateral.

7.06 Actions by the Banks.

(A) As among the Banks:

(1) Any extension of the Revolving Loan Commitment Termination Date, or the maturity date of any of the Notes, or the due date of any payment of principal or interest due hereunder; any change in either of the Rates or in any Bank's Proportionate Share or Maximum Commitment; any surrender of Collateral; any forgiveness of principal of or

interest on the Loan; or any amendment to this Paragraph 7.06(A)(1), must be approved by all of the Banks;

(2) Any election to accelerate, consent, agreement, amendment, modification, waiver, forbearance, action or inaction not specifically provided for in Paragraph 7.06(A)(1) must be approved by Banks holding, in the aggregate, 60% of the aggregate Proportionate Shares of all Banks.

(B) As between the Borrower on the one hand and the Agent Bank on the other, any of the activities referred to in the immediately preceding paragraph (A), that the Agent Bank may take or purport to take on behalf of the Banks, shall be conclusively presumed to have been approved by all of the Banks.

7.07 Resignation by Agent Bank. Subject to the provisions of paragraph 13 of the Participation Agreement, the Agent Bank or any successor thereto may resign as Agent Bank at any time by giving thirty (30) days prior written notice thereof to the Borrower and the other Banks. Such resignation shall be effective on the date specified in such notice. Upon receipt of such notice, Banks (other than the Agent Bank) holding, in the aggregate, 60% of the aggregate Proportionate Shares of all Banks (other than the Agent Bank) may appoint one of such Banks as a successor to the Agent Bank by written instruments delivered to such successor, the Agent Bank and the Borrower, whereupon such successor shall

succeed to all the rights and obligations of the Agent Bank as if originally named as such in this Agreement, and the Agent Bank, at the expense of the Borrower, shall do all such acts as may be necessary to give effect to such succession.

SECTION VIII. MISCELLANEOUS.

8.01 Construction. The provisions of this Agreement shall be in addition to those of any assignment or security agreement, note or other evidence of liability contemplated by this Agreement, now or hereafter held by any of the Banks, all of which shall be construed as complementary to each other. Nothing herein contained shall prevent the Banks from enforcing any or all other notes, assignments or security agreements in accordance with their respective terms.

8.02 Further Assurance. From time to time, the Borrower will execute and deliver to the Agent Bank such additional documents and will provide such additional information as the Agent Bank may reasonably require to carry out the terms of this Agreement and the Assignment and Security Agreement.

8.03 Enforcement and Waiver by the Banks. The Banks shall have the right at all times to enforce the provisions of this Agreement and all other documents required hereunder in strict accordance with the terms hereof and thereof, notwithstanding any conduct or custom on the part

of any Bank in refraining from so doing at any time or times. The failure of any Bank at any time or times to enforce its rights under such provisions, strictly in accordance with the same, shall not be construed as such a failure by any other Bank, or as having created a custom in any way or manner contrary to specific provisions of this Agreement, or as having in any way or manner modified or waived the same. All rights and remedies of the Banks are cumulative and concurrent and the exercise of one right or remedy shall not be deemed a waiver or release of any other right or remedy.

8.04 Notices. Any notices or consents required or permitted by this Agreement shall be in writing, shall be effective when delivered and shall be delivered in person, or by registered mail, postage prepaid, return receipt requested, or telegraph, as follows, unless such address is changed by written notice hereunder:

(A) If to the Borrower:

Manufacturers National Bank of Detroit
100 Renaissance Center, 6th Floor
Detroit, Michigan 48243

Attention: Donald E. Black
Vice President and
Trust Officer

(B) If to the Banks:

First Pennsylvania Bank N.A.
First Pennsylvania Tower
Centre Square Building
Philadelphia, Pennsylvania 19101

Attention: Roger C. Baldwin
Vice President

The Agent Bank will send each Beneficiary, at the address thereof set forth in the Participation Agreement, as amended from time to time, a copy of each notice sent to the Borrower, but each such notice shall be effective when delivered to the Borrower, as hereinabove provided, whether or not the Beneficiaries, or any of them, shall receive any such copy.

8.05 Waiver and Release.

(A) The Borrower waives notice and opportunity to be heard, after acceleration in the manner provided in Paragraph 6.02, before exercise by the Banks of the remedies of self-help, set-off, or of other summary procedures permitted by any applicable Laws or by any agreement with the Borrower or ConRail, and, except where required hereby or by any applicable Laws, notice of any other action taken by the Banks; and

(B) Each of the Banks and the Borrower releases each of the others and the respective officers, attorneys, agents and employees thereof from all claims for loss or damage caused

by any act or omission on the part of any of them except negligence or willful misconduct.

8.06 Applicable Law. The substantive law of the Commonwealth of Pennsylvania shall govern the construction of this Agreement and the rights and remedies of the parties hereto.

8.07 Binding Effect, Assignment and Entire Agreement. This Agreement shall inure to the benefit of, and shall be binding upon, the respective successors and permitted assigns of the parties hereto, and shall be enforceable only against the Trust, and not against the Trustee or the Beneficiaries in their individual capacities. This Agreement, and the documents executed and delivered pursuant hereto, constitute the entire agreement between the parties, and may be amended only by a writing signed on behalf of each party.

8.08 Capacity of Trustee. This Agreement has been executed and delivered by the Trustee solely in the exercise of the powers conferred upon it under the Trust Agreement, and shall be enforceable against the Trustee solely in such capacity, and not personally, and not against the Beneficiaries.

8.09 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed

to be an original, but all of which together shall constitute but one and the same instrument.

8.10 Seal. This Agreement is intended to take effect as an instrument under seal.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

ATTEST: [SEAL]

By Lawrence E. McAlle
Asst. Sec.

FIRST PENNSYLVANIA BANK N.A.

By Raymond C. Sullivan
Vice President

ATTEST: [SEAL]

By _____

CENTRAL NATIONAL BANK OF CLEVELAND

By Raymond C. Sullivan
~~Vice President~~ Attorney-in-Fact

ATTEST: [SEAL]

By _____

THE FIDELITY BANK

By [Signature]
Vice President

ATTEST: [SEAL]

By _____

CONRAIL 1978 TRUST NO. II
[By Manufacturers National Bank of Detroit, Trustee under a Restated and Amended Trust Agreement, restated and amended as of February 15, 1978 and dated as of January 2, 1978]

By [Signature]
DONALD E. BLACK
VICE PRESIDENT AND TRUST OFFICER

SCHEDULE OF EXHIBITS

<u>Exhibit</u>	<u>Subject Matter</u>	<u>Reference</u>
A.	Form of Acceptance Certificate	1.01
B.	Form of Assignment and Security Agreement	1.02
C.	Form of Assignment of Purchase Order	1.03
D.	Form of Builder's Delivery Certificate	1.07
E.	Form of Consent to Assignment and Security Agreement	1.12
F.	Forms of Consent to Assignment of Purchase Order.	1.13
G.	Form of Interim Notes	1.22
H.	Copy of Lease	1.26
I.	Copy of Participation Agreement	1.31
J.	Copy of Purchase Order	1.35
K.	Form of Replacement Note	1.38
L.	Copy of Trust Agreement	1.44
M.	Form of opinion of the the Borrower's counsel	3.01(A)(16)

<u>Exhibit</u>	<u>Subject Matter</u>	<u>Reference</u>
N.	Form of opinion of ConRail's counsel	3.01(A)(17)
O.	Form of opinion of the Beneficiaries' counsel	3.01(A)(18)
P.	Form of opinion of the Builder's counsel	3.01(A)(19)
Q.	Form of opinion of the Banks' counsel	3.01(A)(20)

3/27/78

ACCEPTANCE CERTIFICATE UNDER
REVOLVING LOAN AGREEMENT DATED AS OF JANUARY 2, 1978
BETWEEN CONRAIL 1978 TRUST NO. II
AND FIRST PENNSYLVANIA BANK, ET AL.

CONSOLIDATED RAIL CORPORATION ("ConRail") hereby certifies that:

(A) The units of railroad equipment listed below (the "Units") have been delivered to ConRail in accordance with the lease (the "Lease"), dated as of January 2, 1978, by and between ConRail and MANUFACTURERS NATIONAL BANK OF DETROIT, as trustee (the Lessor") and accepted by ConRail on behalf of the Lessor pursuant to the Lease on the date hereof;

(B) The Units are in good order and condition and conform to all applicable Interstate Commerce Commission requirements and specifications, all standards recommended by the Association of American Railroads and all requirements of the Lease;

(C) The Units have been marked, permanently and conspicuously, with the legend:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED UNDER THE INTERSTATE COMMERCE ACT,
SECTION 20c"; and

(D) The Units are subject to the terms and conditions of the Lease.

The Units to which this certificate pertains are:

<u>Serial No.</u>	<u>Manufacturer</u>	<u>Identifying No.</u>	<u>Place of Acceptance</u>
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Dated at _____, this _____ day
of _____, 1978.

CONSOLIDATED RAIL CORPORATION

By _____

3/10/78
3/27/78
7/18/78
8/22/78

ASSIGNMENT AND SECURITY AGREEMENT

THIS ASSIGNMENT AND SECURITY AGREEMENT, dated as of January 2, 1978, but executed and delivered on August , 1978, by and among CONRAIL 1978 TRUST NO. II (hereinafter, the "Borrower" or the "Trust"), FIRST PENNSYLVANIA BANK N.A. (the "Agent Bank"), CENTRAL NATIONAL BANK OF CLEVELAND and THE FIDELITY BANK (the foregoing banks, including the Agent Bank, being hereinafter sometimes referred to individually as a "Bank" and collectively as the "Banks"),

W I T N E S S E T H :

Background. The Borrower is a trust of which MANUFACTURERS NATIONAL BANK OF DETROIT is trustee (hereinafter referred to as the "Trustee") and FORD MOTOR CREDIT COMPANY, THE BUDD LEASING CORP. and GOULD LEASING INC. are the beneficiaries (hereinafter sometimes referred to individually as a "Beneficiary" and collectively as the "Beneficiaries"), under a Restated and Amended Trust Agreement, restated and amended as of February 15, 1978, and dated as of January 2, 1978.

The parties hereto are also parties to a Revolving Loan Agreement, dated as of January 2, 1978, (the "Loan Agreement"), pursuant to which the Banks agreed to lend the Borrower up to \$5,468,450 (the "Loan"). The Loan is to be used, together with the investment (as defined in the Loan

Agreement), to purchase the Equipment and pay the Transaction Costs (as each such term is defined in the Loan Agreement). In addition, the Borrower, as lessor, has entered into the Lease (as defined in the Loan Agreement) with CONSOLIDATED RAIL CORPORATION ("ConRail") as lessee, providing for the lease of the Equipment to ConRail.

It is a condition precedent to the obligation of the Banks to make the Loan under the Loan Agreement that the Borrower execute and deliver this Assignment and, to induce the Banks to enter into the Loan Agreement and to make the Loan, the Borrower is willing to do so.

NOW, THEREFORE, in consideration of the promises herein contained, and each intending to be legally bound hereby, the parties agree as follows:

SECTION 1. As collateral security for the prompt satisfaction of all Obligations (as defined in the Loan Agreement), the Borrower hereby assigns to the Banks and grants the Banks a lien on and security interest in all of the Borrower's right, title and interest in and to all of the following, wherever located, whether now owned or hereafter acquired, together with all replacements therefor and proceeds (including, but without limitation, insurance proceeds) thereof (collectively, the "Collateral"):

(A) The Purchase Order (as defined in the Loan Agreement);

(B) The Equipment, including, but without limitation, the Equipment more fully listed and described in Exhibit A, attached hereto and made a part hereof;

(C) The Lease and all of the Borrower's right, title and interest, powers, privileges and other benefits thereunder, including but without limitation: the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Borrower from ConRail under or pursuant to the provisions of the Lease (excluding, however, the right of the Borrower to any payments from ConRail to the Borrower or the Beneficiaries pursuant to the provisions of § 6 and § 9 of the Lease, or of the Tax Indemnity Agreement dated as of January 2, 1978, between ConRail and the Beneficiaries), whether as rent, casualty payments, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"), and, upon the happening of an Event of Default specified in the Lease, the right to make all waivers and agreements, to give all notices, consents and releases, to take all action and to do any and all other things whatsoever which the Borrower is or may become entitled to do under the Lease; and

(D) All records pertaining to the Collateral described in the foregoing paragraphs.

It is the intention of the parties hereto that the foregoing liens shall be first and prior liens and shall be enforceable as such.

SECTION 2. After any acceleration, as provided for in Paragraph 6.02 of the Loan Agreement, the Banks shall have, in addition to the rights and remedies given them by the Loan Agreement and this Assignment, all those allowed by applicable laws, except that, without the written consent of the Borrower, the Banks may not retain the Collateral in satisfaction of the Obligations. Without limiting the generality of the foregoing, the Agent Bank may immediately, without demand of performance and without other notice (except as specifically required by this Assignment) or demand whatsoever to the Borrower, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, in Philadelphia, Pennsylvania, or elsewhere, the whole or, from time to time, any part of the Collateral, or any interest which the Borrower may have therein. After deducting from the proceeds of sale or other disposition of the Collateral all expenses (including all reasonable expenses for legal services), the Agent Bank shall apply such proceeds toward the satisfaction of the Obligations. Any remainder of the proceeds after satisfaction in full of the Obligations shall, subject to mandatory provisions of any applicable laws, be paid over to

the Borrower in immediately available federal funds. Notice of any sale or other disposition shall be given to the Borrower at least thirty (30) days before the time of any intended public sale or of the time after which any intended private sale or other disposition of the Collateral is to be made, which the Borrower hereby agrees shall be reasonable notice of such sale or other disposition.

SECTION 3. In furtherance of the assignment and security interest provided for herein, the Borrower agrees as follows:

(A) The Borrower will abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Borrower. Without the written consent of the Banks, the Borrower will not: anticipate the rents under the Lease; waive, excuse, condone, forgive or in any manner release or discharge ConRail thereunder of or from the obligations, covenants and agreements to be performed by ConRail that are intended to satisfy the Obligations of the Borrower under the Loan Agreement, including, but without limitation, the obligation to make the Payments in the manner and at the time and place specified therein; terminate the Lease; or enter into any agreement amending or modifying the Lease, and the Borrower agrees that any such amendment or modification that adversely affects the

rights of the Banks hereunder shall be void without the Agent Bank's consent.

(B) At the Borrower's sole cost and expense, the Borrower will appear in and defend every action or proceeding arising under, growing out of, or in any manner connected with the obligations, duties or liabilities of the Borrower under the Lease.

(C) The Borrower will direct that, at the time of delivery of each unit of the Equipment to ConRail under the Lease, there will be plainly, distinctly, permanently and conspicuously marked by stencilling or otherwise on each side of each unit, the following legend:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED UNDER THE INTERSTATE COMMERCE ACT,
SECTION 20c."

(D) Should the Borrower fail to do any act which this Assignment requires the Borrower to do, then the Agent Bank may (but without obligation so to do), after first making written demand upon the Borrower and affording the Borrower a reasonable period of time within which to do such act (but without releasing the Borrower from any obligation hereunder), make or do the same in such manner and to such extent as the Agent Bank may deem necessary to protect the Collateral, including specifically, but without limitation, appearing in and defending any action or proceeding purporting to affect the Collateral or the rights or powers

of the Banks, and performing and discharging each and every obligation, covenant and agreement of the Borrower contained in the Lease. In exercising any such powers, the Agent Bank may pay necessary and reasonable costs and expenses, employ counsel and incur and pay reasonable attorneys' fees and the Borrower will reimburse the Agent Bank for such costs, expenses and fees on demand.

At any such sale or other disposition, the Banks, or any of them, may, to the extent permissible under applicable laws, purchase the whole or any part of the Collateral. Without limiting the generality of any of the rights and remedies conferred upon the Banks under this Section, the Banks may, after acceleration of the maturity of the Loan, to the full extent permissible by applicable laws, do all or any of the following:

- (A) Terminate the Lease;
- (B) Take immediate possession of the Collateral, either personally or by means of a receiver appointed by a court of competent jurisdiction;
- (C) At the Banks' option, use, operate, manage and control the Collateral in any lawful manner;
- (D) Collect and receive all rents, income, revenue, earnings, issues and profits therefrom; and
- (E) Maintain, repair, renovate, alter or remove the Collateral as the Banks may determine in their discretion.

SECTION 4. This Assignment has been executed and delivered for the sole purpose of providing collateral security for the Obligations of the Borrower under the Loan Agreement and, accordingly:

(A) The execution and delivery of this Assignment shall not subject the Banks, or any of them, to, or transfer or pass or in any way affect or modify, the liability of the Borrower under the Lease, and all obligations of the Borrower to ConRail shall be and remain enforceable by ConRail, its successors and assigns, against, and only against, the Borrower, its successors and assigns; and

(B) The Banks hereby agree with the Borrower that, so long as no Event of Default under the Loan Agreement has occurred and is continuing:

(1) No Bank will exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Borrower to the Banks by this Assignment, except the right of the Agent Bank to receive the Payments and apply them as provided in the Loan Agreement; and

(2) Subject to the terms of the Lease, the Loan Agreement and this Assignment, the Borrower may exercise or enforce, or seek to exercise or enforce, such rights, powers, privileges, authorizations or benefits.

SECTION 5. The Borrower does hereby constitute the Agent Bank the Borrower's true and lawful attorney-in-fact, irrevocable, with full power, after the occurrence of an Event of Default, in the name of the Borrower, or otherwise, to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Borrower is or may become entitled, to enforce compliance by ConRail with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Banks may deem to be necessary or advisable in the premises.

SECTION 6. Upon the full discharge and satisfaction of all the Borrower's Obligations under the Loan Agreement and the Notes (as defined in the Loan Agreement), this Assignment and all rights herein assigned to the Banks shall terminate, all estate, right, title and interest of the Banks in and to the Collateral shall revert to the Borrower, and the Banks shall do such acts and shall execute such filings and other documents as shall be required to give effect to the foregoing provisions of this section.

SECTION 7. The Borrower makes no representation or warranty as to the due execution of the Lease by ConRail

or, with respect to ConRail, the validity, sufficiency or enforceability thereof. Nor shall the Borrower be responsible for the performance or observance by ConRail of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease.

SECTION 8. The Borrower will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, re-register, re-record, or re-deposit whenever required) any and all further instruments required by law or reasonably requested by the Agent Bank in order to confirm or further assure, the interests of the Banks hereunder. The obligations set forth in this section shall be satisfied if, where proper, performed by ConRail.

SECTION 9. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania, but the parties hereto shall be entitled to all of the rights conferred by Section 20c of the Interstate Commerce Act.

SECTION 10. This Assignment shall inure to the benefit of, and shall be binding upon, the respective successors and permitted assigns of the parties hereto and shall be enforceable only against the Trust and not against

the Trustee or the Beneficiaries in their individual capacities.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have caused this Assignment to be duly executed and their respective corporate seals to be hereunto affixed and duly attested, all as of the date and year first above written.

ATTEST: [CORPORATE SEAL]

FIRST PENNSYLVANIA BANK N.A.

Assistant Secretary

By _____
Vice President

ATTEST: [CORPORATE SEAL]

CENTRAL NATIONAL BANK OF CLEVELAND

Assistant Secretary

By _____
Vice President

ATTEST: [CORPORATE SEAL]

THE FIDELITY BANK

Assistant Secretary

By _____
Vice President

ATTEST: [CORPORATE SEAL]

CONRAIL 1978 TRUST NO. II
[By Manufacturers National Bank of Detroit, Trustee under a Restated and Amended Trust Agreement, restated and amended as of February 15, 1978 and dated as of January 2, 1978]

Secretary

By _____

ASSIGNMENT OF PURCHASE ORDER
PURSUANT TO CONRAIL 1978 TRUST NO. II

ASSIGNMENT OF PURCHASE ORDER

between

CONSOLIDATED RAIL CORPORATION,

as Assignor

and

MANUFACTURERS NATIONAL BANK
OF DETROIT,

as Trustee and Assignee

Dated as of January 2, 1978

ASSIGNMENT OF PURCHASE ORDER
PURSUANT TO CONRAIL 1978 TRUST NO. II

ASSIGNMENT OF PURCHASE ORDER dated as of January 2, 1978 (hereinafter called this Assignment) among CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (hereinafter called the Lessee) as assignor and MANUFACTURERS NATIONAL BANK OF DETROIT, a national bank association (hereinafter called the Trustee), as assignee and as Trustee under a Restated and Amended Trust Agreement for CONRAIL 1978 TRUST NO. II restated and amended as of February 15, 1978 and dated as of January 2, 1978 (hereinafter called the Trust Agreement).

WHEREAS the Lessee is entering into a Purchase Agreement dated as of May 5, 1978 (hereinafter called the Purchase Order) with Whittaker Corporation (Berwick Forge and Fabricating Division) (hereinafter called the Builder), wherein the Builder has agreed to manufacture, sell and deliver to the Lessee the units of railroad equipment described in Schedule A to the Lease (hereinafter defined), which will consist of high roof cushioned underframe multi-purpose box cars (hereinafter called the Equipment or the Unit or Units);

WHEREAS the trust under the Trust Agreement (hereinafter called the Trust) is entering into a Revolving Loan Agreement dated as of January 2, 1978 (hereinafter called the Revolving Loan Agreement) with First Pennsylvania Bank N.A. (hereinafter called the Agent) in substantially the form attached to the Participation Agreement dated as of January 2, 1978 (hereinafter called the Participation Agreement) as Annex B, pursuant to which 65% of the aggregate Cost of the Equipment (as defined in the Trust Agreement) will be loaned to the Trust for the purchase of the Equipment, and under which the Trustee will execute an Assignment and Security Agreement dated as of January 2, 1978 (hereinafter called the Lease Assignment), in substantially the form attached to the Participation Agreement as Annex E, and the Lessee will execute a Consent to Assignment and Security Agreement dated as of the date hereof (hereinafter called the Consent) in substantially the form attached to the Participation Agreement as Annex F;

WHEREAS the Lessee will lease the Equipment from the Trustee pursuant to a Lease of Railroad Equipment dated as of January 2, 1978 (hereinafter called the Lease) in substantially the form attached to the Participation Agreement as Annex A;

NOW, THEREFORE, in consideration of the agreements and the covenants hereinafter contained, the parties hereto hereby agree as follows:

1. The Lessee hereby sells, assigns, transfers and sets over to the Trustee, as Trustee under the Trust Agreement, all of its right, title and interest in and to the Equipment and in the Purchase Order.

2. The Trustee hereby agrees, subject and pursuant to the provisions for delivery, acceptance and closing set forth in the Lease and the Participation Agreement, to make payment to the Builder on behalf of the Trust for the Equipment, such that the Trust and its Beneficiaries (as defined in the Trust Agreement) will become the owners of the Equipment for all purposes whatsoever.

3. It is expressly agreed between the parties hereto that (a) subject to the provisions of the Lease and the Participation Agreement the Lessee shall at all times remain liable to the Builder under the Purchase Order to perform all the duties and obligations of the "Buyer" thereunder to the same extent as if this Assignment had not been executed; and (b) neither the Trustee nor the Beneficiaries shall have any obligation or liability under the Purchase Order by reason of, or arising out of, this Assignment or be obligated to perform any of the obligations or duties of the Lessee under the Purchase Order or to make any payment thereunder other than to make payment to the Builder in accordance with Paragraph 2 hereof.

4. It is expressly agreed between the parties hereto that the provisions of the Lease and the Participation Agreement, including but not limited to § 2 of the Lease and Paragraphs 1, 7, 8, and 9 of the Participation Agreement relating to the delivery and acceptance of and closing for the Equipment, are in full force and effect as of this date.

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

CONSOLIDATED RAIL CORPORATION

By _____

MANUFACTURERS NATIONAL BANK
OF DETROIT, as Trustee,

By _____

3/10/78
3/27/78
8/22/78

BUILDER'S DELIVERY CERTIFICATE UNDER
REVOLVING LOAN AGREEMENT DATED AS OF JANUARY 2, 1978
BETWEEN CONRAIL 1978 TRUST NO. II AND
FIRST PENNSYLVANIA BANK N.A., ET AL.

Whittaker Corporation, a California corporation
(Berwick Forge and Fabricating Division), ("Builder")
hereby certifies that:

(A) The units of railroad equipment listed
below (the "Units") have been delivered to Consolidated Rail
Corporation ("ConRail") in accordance with the purchase order
dated , 1978, by and between Builder and ConRail
(the "Purchase Order");

(B) The Units are in good order and condition
and conform to all applicable Interstate Commerce Commission
requirements and specifications, all standards recommended by
the Association of American Railroads and all requirements
of the Purchase Order;

(C) Such Units have been marked, permanently
and conspicuously, with the legend:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED UNDER THE INTERSTATE COMMERCE ACT,
SECTION 20c;" and

(D) Identifying numbers as specified in the
Lease dated as of January 2, 1978, between ConRail and Manu-
facturers National Bank of Detroit have been attached or af-
fixed to the Units.

The Builder represents and warrants to the Agent
Bank and the Trustee (as those terms are defined in the afore-
said Revolving Loan Agreement) that at the time of delivery
of the Units, the Units were newly manufactured and were not
used, it had legal title to the Units and good and lawful
right to sell the Units and that the Trustee received title
to the Units free of all claims, liens, security interests
and other encumbrances of any nature, excepting only the
rights of the Banks under the Assignment and Security Agree-
ment (as each such term is defined in the said Revolving
Loan Agreement) and the rights of ConRail under the Lease
(as defined in the aforesaid Revolving Loan Agreement).

The Units to which this certificate pertains are:

<u>Serial No.</u>	<u>Identifying No.</u>	<u>Place of Acceptance</u>
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Dated at _____, _____, this _____ day of _____, 1978.

WHITTAKER CORPORATION
(BERWICK FORGE AND FABRICATING
DIVISION)

By _____

3/10/78
3/27/78
7/18/78
8/22/78

CONSENT TO ASSIGNMENT AND SECURITY AGREEMENT

The undersigned, a corporation duly incorporated under the laws of the Commonwealth of Pennsylvania, the lessee named in the lease (hereinafter called the "Lease") referred to in that certain Assignment and Security Agreement of even date herewith (hereinafter called the "Assignment"), by and among CONRAIL 1978 TRUST NO. II (the "Borrower"), FIRST PENNSYLVANIA BANK N.A. (the "Agent Bank"), CENTRAL NATIONAL BANK OF CLEVELAND and THE FIDELITY BANK (the foregoing banks, including the Agent Bank, being hereinafter sometimes referred to individually as a "Bank" and collectively as the "Banks"), hereby acknowledges receipt of a copy of the Assignment and consents to all the terms and conditions of the Assignment.

As an inducement to the Banks to make the loan (the "Loan") described in the Revolving Loan Agreement referred to in the Assignment, by the proceeds of which the Borrower is partially financing the purchase of the units of railroad equipment (hereinafter called the "Units") being leased by the Borrower to the undersigned pursuant to the Lease, and in consideration of other good and valuable consideration, the undersigned:

(A) Agrees, subject to the terms and conditions of the Assignment, to pay all rentals, casualty payments, liquidated damages, and other moneys (other than

pursuant to Sections 6 and 9 of the Lease or the Tax Indemnity Agreement referred to in the Assignment) provided for in the Lease (which moneys are hereinafter called "Payments") due and to become due under the Lease in respect of the Units leased thereunder, directly to the Agent Bank (to be applied as provided in the Revolving Loan Agreement) at First Pennsylvania Tower, Centre Square Building, Philadelphia, Pennsylvania 19101, attention Roger C. Baldwin, Vice President (or to such other address as may be furnished in writing to the undersigned by the Agent Bank);

(B) Agrees, subject to the terms and conditions of the Assignment, that the Banks shall be entitled to the benefits of, and to receive and enforce performance of, all of the covenants to be performed by the undersigned under the Lease;

(C) Agrees that the Payments shall not be subject to any right of setoff or counterclaim or other defense which the undersigned might have against the Borrower or otherwise, and the payment thereof to the Agent Bank shall be final;

(D) Agrees that any rights acquired by the undersigned, by subrogation or otherwise, against the Borrower with respect to any of the Units by reason of any Payment made by the undersigned pursuant hereto, may not be

EXHIBIT F

CONSENT TO ASSIGNMENT OF PURCHASE ORDER
PURSUANT TO CONRAIL 1978 TRUST NO. II

CONSENT TO ASSIGNMENT OF PURCHASE ORDER

by

WHITTAKER CORPORATION
(BERWICK FORGE AND FABRICATING DIVISION)

Dated as of January 2, 1978

CONSENT TO ASSIGNMENT OF PURCHASER ORDER
PURSUANT TO CONRAIL 1978 TRUST NO. II

CONSENT TO ASSIGNMENT OF PURCHASE ORDER (hereinafter called this Consent) dated as of January 2, 1978 by WHITTAKER CORPORATION (BERWICK FORGE AND FABRICATING DIVISION) (hereinafter called the Builder).

WHEREAS Consolidated Rail Corporation (hereinafter called the Lessee) is entering into a Purchase Agreement dated as of May 5, 1978 (hereinafter called the Purchase Order) with the Builder, wherein the Builder has agreed to manufacture, sell and deliver to the Lessee the units of railroad equipment described in Schedule A to the Lease (hereinafter defined), which will consist of high roof cushioned under-frame multi-purpose box cars (hereinafter called the Equipment or the Unit or Units);

WHEREAS the Lessee is assigning its interests in the Purchase Order pursuant to an Assignment of Purchase Order dated as of January 2, 1978 (hereinafter called the Assignment) to Manufacturers National Bank of Detroit (hereinafter called the Trustee) as Trustee under a Restated and Amended Trust Agreement for CONRAIL 1978 Trust No. II restated and amended as of February 15, 1978 and dated as of January 2, 1978 (hereinafter called the Trust Agreement), in substantially the form attached to the Participation Agreement dated as of January 2, 1978 (hereinafter called the Participation Agreement) as Annex C;

WHEREAS the trust under the Trust Agreement is entering into a Revolving Loan Agreement dated as of January 2, 1978 (hereinafter called the Revolving Loan Agreement) in substantially the form attached to the Participation Agreement as Annex B, pursuant to which 65% of the aggregate Cost of the Equipment (as defined in the Trust Agreement) will be loaned to the trust for the purchase of the Equipment, and under which the Trustee will execute for the Lenders an Assignment and Security Agreement dated as of January 2, 1978 (hereinafter called the Lease Assignment) in substantially the form attached to the Participation Agreement as Annex E, and the Lessee will execute for the Trustee and the Lenders a Consent to Assignment and Security Agreement dated as of January 2, 1978 (hereinafter called the Lessee's Consent) in substantially the form attached to the Participation Agreement as Annex F;

WHEREAS the Lessee will lease the Equipment from the Trustee, pursuant to a Lease of Railroad Equipment dated as of January 2, 1978 (hereinafter called the Lease) in substantially the form attached to the Participation Agreement as Annex A;

NOW, THEREFORE, in consideration of the agreements and the covenants contained in the Assignment, the Builder, intending to be legally bound, hereby agrees as follows:

1. The Builder hereby acknowledges due notice of the assignment of Lessee's right, title and interest in and to the Equipment and in the Purchase Order contained in the Assignment, and hereby consents thereto.

2. The Builder hereby agrees to construct and deliver the Equipment to the Trustee pursuant and subject to the provisions of the Lease and the Participation Agreement, and in the condition and according to the specifications stated in the Purchase Order.

3. The Builder hereby agrees that it will warrant to the Lenders and the Trustee that at the time of delivery of each unit of the Equipment pursuant to the Purchase Order it had legal title to such unit and good and lawful right to sell such unit and that the Trustee received title to such unit free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Builder under the Purchase Order and the rights of the Lessee under the Lease; and the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the Purchase Order. The Builder will not deliver any of the Equipment to the Trustee under the Purchase Order until the Lease Assignment and the Lease have been filed and recorded in accordance with Section 20c of the Interstate Commerce Act (the Builder and its counsel being entitled to rely on advice from special counsel for the Agent that such filing and recordation have occurred).

It is understood and agreed that no Unit shall be delivered under the Purchase Order, the Assignment or this Consent if to the knowledge of the Builder:

(a) the documents set forth in Paragraphs 7, 8 and 9 of the Participation Agreement shall not have been delivered as provided therein; or

(b) (i) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee 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); or

(ii) any other proceedings shall be commenced by or against the Trust, the Trustee, or the Lessee, for any relief which includes, or might result in, any modification of the obligations of the Trust, the Trustee or the Lessee, under the Lease, the Revolving Loan Agreement, the Lessee's Consent, or the Assignment 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 Trust, the Trustee or the Lessee, under the Lease, the Revolving Loan Agreement, the Assignment or the Lessee's Consent), 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); or

(c) an Event of Default or other event which after notice or lapse of time or both would become an Event of Default under the Lease has occurred and be continuing; or

(d) a material adverse change shall have occurred in Lessee's financial condition since February 15, 1978; or

(e) the Agent, Trustee and Beneficiaries shall not have received on the tenth day of the most recent calendar month (including the then current calendar month) succeeding the first delivery of Equipment, in form and substance satisfactory to each of them,

(i) an opinion of Ronald Dietrich, Esq., Vice President-Law for the Lessee, dated as

of such tenth day, confirming that, as of such date, the opinion set forth in Paragraph 3.01(A)(17) of the Revolving Loan Agreement is correct;

(ii) a certificate of an executive officer of the Lessee dated as of such tenth day, confirming that, as of such date, the certificate set forth in Paragraph 3.01(A)(14) of the Revolving Loan Agreement is correct and the representations and warranties contained therein are correct as if made on such tenth day; and

(iii) a certificate of an officer of the Trustee dated as of such tenth day confirming that, as of such date, the certificate set forth in Paragraph 3.01(A)(13) of the Revolving Loan Agreement is correct.

In connection with the deliveries the Builder may rely upon a certificate from the Lessee to the effect that the conditions for delivery have been met, but such certificate shall not affect the rights, duties or liabilities running between the Lessee and the Trustee.

IN WITNESS WHEREOF, the Builder, intending to be legally bound, has caused this Consent to be executed by a duly authorized signatory or other authorized person, as of the date first written.

WHITTAKER CORPORATION
(BERWICK FORGE AND FABRICATING DIVISION)

By _____
Authorized Signatory

3/10/78
3/27/78
7/18/78
8/22/78

INTERIM NOTE

\$ Philadelphia, Pennsylvania
August , 1978

On or before the date of the Final Closing, as such term is defined in the Revolving Loan Agreement, dated as of January 2, 1978, by and between the undersigned, the payee hereof and others (the "Loan Agreement"), the undersigned promises to pay to the order of
at [the offices of its agent, First Pennsylvania Bank N.A.,
at] First Pennsylvania Tower, Centre Square Building,
Philadelphia, Pennsylvania 19101, the principal amount of
Dollars (\$),
(or such lesser amount as shall then be owing by the undersigned to the payee hereof pursuant to the provisions of the Loan Agreement), by the delivery of a Replacement Note (as defined in the Loan Agreement), with interest in such amount and at such Rates as are provided by the Loan Agreement, to all of the provisions of which this Note is subject.

CONRAIL 1978 TRUST NO. II
[By Manufacturers National Bank
of Detroit, Trustee under a Re-
stated and Amended Trust Agree-
ment, restated and amended as of
February 15, 1978 and dated as
of January 2, 1978]

LEASE OF RAILROAD EQUIPMENT

PURSUANT TO

CONRAIL 1978 TRUST NO. II

LEASE OF RAILROAD EQUIPMENT

Dated as of January 2, 1978

between

CONSOLIDATED RAIL CORPORATION

and

MANUFACTURERS NATIONAL BANK
OF DETROIT, as Trustee

LEASE OF RAILROAD EQUIPMENT
PURSUANT TO
CONRAIL 1978 TRUST NO. II

LEASE OF RAILROAD EQUIPMENT dated as of January 2, 1978 (hereinafter called the Lease), between CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (hereinafter called the Lessee), and MANUFACTURERS NATIONAL BANK OF DETROIT, as Trustee (hereinafter called the Lessor) under a Restated and Amended Trust Agreement for Conrail 1978 Trust No. II restated and amended as of February 15, 1978 and dated as of January 2, 1978 (hereinafter called the Trust Agreement) with FORD MOTOR CREDIT COMPANY, THE BUDD LEASING CORP. and GOULD LEASING INC. (hereinafter called the Beneficiaries).

WHEREAS the Lessee is entering into a Purchase Agreement dated as of May 5, 1978 (hereinafter called the Purchase Order) with Whittaker Corporation (Berwick Forge and Fabricating Division) (hereinafter called the Builder), wherein the Builder has agreed to manufacture, sell and deliver to the Lessee the units of railroad equipment described in Schedule A hereto, which will consist of high roof cushioned underframe multi-purpose box cars (hereinafter called the Box Cars or the Equipment or the Unit or Units);

WHEREAS the Lessee is assigning its interests in the Purchase Order pursuant to an Assignment of Purchase Order dated as of January 2, 1978 (hereinafter called the Assignment) to the Lessor, and the Builder is consenting to the Assignment and to the Lease Assignment (as hereinafter defined) pursuant to a Consent to Assignment of Purchase Order dated as of January 2, 1978 (hereinafter called the Builder's Consent), both under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) between the Lessee, the Lessor, the Beneficiaries, First Pennsylvania Bank N.A., acting as a lender and as agent for each of the lenders (hereinafter defined) (the agent in its capacity as agent hereinafter with its successors and assigns called the Agent) Central National Bank of Cleveland and The Fidelity Bank (together with the Agent in its capacity as lender hereinafter called the Lenders);

WHEREAS the Lessee desires to lease such number of Units as are delivered and accepted and settled for under the

Purchase Order at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the Lessor will assign this Lease for security to the Lenders pursuant to an Assignment and Security Agreement, dated as of the date hereof (hereinafter called the Lease Assignment) under a Revolving Loan Agreement dated as of the date hereof (hereinafter called the Revolving Loan Agreement) between the Lenders and the trust established by the Trust Agreement (hereinafter called the Trust), and the Lessee will consent to the Lease Assignment pursuant to a Consent to Assignment and Security Agreement dated as of the date hereof (hereinafter called the Consent);

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

§ 1. Net Lease. This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor or the Beneficiaries under this Lease, the Participation Agreement, the Purchase Order, or the Assignment, or against the Builders or the Lenders or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all

events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor, the Beneficiaries, the Lenders or the Builder for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Assignment, and the Lessee agrees to conduct a full inspection of the Equipment during construction of the Units, with the intention that the Equipment should be of as high a quality as if the Lessee were itself purchasing the Equipment for its permanent use. The Lessor retains the right but shall not have the obligation to make its own inspection of the Equipment during construction or upon delivery, in addition to inspections performed hereunder by the Lessee. The Units will be delivered to the Lessee, subject to the conditions herein, in the Assignment and in the Builder's Consent at the point or points within the United States designated in the Purchase Order. Upon such delivery, the Lessee will cause an employee of the Lessee to inspect the same, and if such Unit is found to be in accordance with the Specifications (as defined in the Purchase Order), to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the Assignment, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the last sentence hereof, 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 Lessee will not accept the delivery of any Unit on any delivery date if:

- (a) the documents, certificates and opinions required to be delivered pursuant to Paragraph 7,

8 or 9 of the Participation Agreement on and with respect to that delivery date shall not have been delivered as stated therein, or if

(i) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee 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); or

(ii) any other proceedings shall be commenced by or against the Trust, the Trustee or the Lessee, for any relief which includes, or might result in, any modification of the obligations of the Trust, the Trustee or the Lessee, under the Lease, the Revolving Loan Agreement, the Consent, or the Assignment 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 Trust, the Trustee or the Lessee, hereunder or under the Revolving Loan Agreement, the Assignment or the Consent), 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); or

(b) an Event of Default (as hereinafter defined) or other event which after notice or lapse of time or both would become an Event of Default has occurred and be continuing; or

(c) a material adverse change shall have occurred in Lessee's financial condition since February 15, 1978, except as set forth in the Supplements to the Memorandum for Private Investors dated February 15, 1978, dated April 26 and July 5, 1978; or

(d) the Agent, Trustee and Beneficiaries shall not have received on the tenth day of the most recent calendar month (including the then current calendar month) succeeding the First Delivery Date, in form and substance satisfactory to each of them,

(i) an opinion of Ronald Dietrich, Esq., Vice President-Law for the Lessee, or such other counsel for Conrail acceptable to the parties, dated as of such tenth day confirming that, as of such date, the opinion set forth in Paragraph 3.01(A)(17) of the Revolving Loan Agreement is correct;

(ii) a certificate of an executive officer of the Lessee dated as of such tenth day confirming that, as of such date, the certificate set forth in Paragraph 3.01(A)(15) of the Revolving Loan Agreement is correct and the representations and warranties contained therein are correct as if made on such tenth day; and

(iii) a certificate of an officer of the Trustee dated as of such tenth day confirming that, as of such date, the certificate set forth in Paragraph 3.01(A)(14) of the Revolving Loan Agreement is correct.

In no event will the Lessee accept deliveries after December 31, 1978.

§ 3. Rentals. Lessee agrees to pay the Lessor, as rental with respect to each Unit delivered and accepted pursuant to § 2 hereof prior to October 1, 1978 (i) for the period from the Closing Date with respect to such Unit to, but not including, October 10, 1978, which period shall hereafter be referred to as the Interim Lease Term, an amount equal to .017153% of the aggregate of the Invoiced Purchase Price plus the Transaction Costs (as such terms are defined in the Trust Agreement) with respect to each Box Car (hereinafter called the Cost with respect to such Box Car) for each day of the Interim Lease Term during which such Box Car is subject to this Lease, and (ii) for each Box Car, 48 consecutive quarterly payments each of which shall be in an amount equal to 2.5963% of the Cost of such Box Car, followed immediately by 12 consecutive quarterly payments each of which shall be in an amount equal to 1.29815% of the Cost of such Box Car.

The Rentals due for the Interim Lease Term shall be paid in October 10, 1978. The periodic rental payments referred to in clause (i) of this § 3 shall be paid on the tenth day of each October, January, April and July, commencing on January 10, 1979 (hereinafter called the First Rental Payment Date), and ending on October 10, 1993. The latter period of the Lease hereafter shall be called the Basic Lease Term.

In the event that a Certificate of Acceptance for any Unit is issued after September 30, 1978, or any Unit is settled for on any Closing Date after October 10, 1978, then the rental payments hereinbefore set forth and the Casualty Values set forth in § 7 hereof shall be increased by such amounts as shall in the reasonable opinion of the Beneficiaries, cause the Beneficiaries' net after tax annual cash flows and net after tax rates of return on investment to be at least the same as such cash flows and rates of return would have been had such Certificate of Acceptance been issued on or prior to September 30, 1978, or had such Unit been settled for on any Closing Date on or prior to October 10, 1978.

Any rental payments due pursuant to the Tax Indemnity Agreement dated as of the date hereof between the Lessor and the Lessee are in addition to and separate from the Rentals under this Lease.

During any extension of this Lease pursuant to § 13 hereof, the rentals during such extension shall be payable as provided in § 13.

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

Unless the Lease Assignment is not executed and delivered, the Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, other than the payments provided for in §§ 6 and 9 hereof, but including without limitation the payments provided for in this § 3 and in § 7 hereof, at the principal office of the Agent until the Lenders shall have been paid the full principal amount of the loan under the Revolving Loan Agreement (hereinafter called the Loan), together with interest and all other payments required by the Revolving Loan Agreement, for the account of the Lessor in care of the Agent, with instructions to the Lenders (subject to the provisions of the Consent) first, to apply such payments to satisfy the obligations of the Trust under the Revolving Loan Agreement, and second, so

long as no event of default under the Revolving Loan Agreement shall have occurred and be continuing, to pay any balance promptly to the Lessor in Federal or other funds immediately available at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in Federal or other funds immediately available to the Agent or as otherwise provided in the Lease Assignment and the Consent, by 11:00 a.m., local time, on the date when and in the city where such payment is due.

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

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Lenders under the Revolving Loan Agreement. If an event of default should occur under the Revolving Loan Agreement, the Lenders may terminate this Lease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Lessee will cause at its expense each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c", 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 and Lenders' security interest in such Unit and the rights of the Lessor under this Lease and the rights of the Lenders under the Purchase Order. The Lessee will not place any Unit in operation or exercise any control or dominion over the same until such words shall have

been so marked and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Agent and the Lessor and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Revolving Loan Agreement shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Agent and the Lessor an opinion of counsel to such effect. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or similar type as the Units for convenience of identification of its right to use the Units as permitted by this Lease.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor and the Beneficiaries for collection or other charges and will be free of expense to the Lessor and the Beneficiaries 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 or the Beneficiaries in consequence of the receipt of payments provided for herein and other than state or local taxes measured by net income or value added, 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) now or 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 or the Revolving Loan Agreement, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof (except as provided above) or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every

part of such Unit free and clear of all impositions which might in any way affect the title of the 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 it is contesting in good faith, with due diligence, and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof is permitted by law and does not, in the reasonable opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder or the Lenders under the Revolving Loan Agreement. The Lessee agrees to give the Lessor notice of such contest 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 or the Beneficiaries directly and paid by the Lessor or the Beneficiaries, the Lessee shall reimburse the Lessor or the Beneficiaries on presentation of an invoice therefor, with interest at a rate equal to the lesser of 13% per annum or the maximum rate permitted by applicable law, for the period between payment of the imposition by the Lessor and reimbursement.

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

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

To the extent the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Lessor hereby authorizes the Lessee to act in the Lessor's own name and on the Lessor's behalf; provided, however, that the Lessee shall indemnify and hold the Lessor harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

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

§ 7. Maintenance; Casualty Occurrences; Insurance. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good operating order, repair, and condition.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, seized or attached by a judgment creditor of the Lessee, or rendered permanently unfit or unavailable for use from any cause whatsoever, or taken or requisitioned by condemnation or requisitioned for use or otherwise, except requisition for use by the United States Government for a stated period not in excess of the then remaining term of this Lease (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in § 11 or 14 hereof, the Lessee shall promptly and fully inform the Lessor and the Agent with respect thereto. On the rental payment date with respect to such Unit next succeeding such Casualty Occurrence the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit determined as of the date of such rental payment date in accordance with the schedule referred to below. As of the rental payment date on which the Casualty Value is due 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) the Lessor shall be entitled to recover possession of such Unit. Any Casualty Value not paid when due shall accrue interest as provided in § 16 hereof. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis without recourse to, or representation or warranty by the Lessor. Provided that the Lessee has previously paid the the Casualty Value to the Lessor, the Lessee shall be entitled to the net

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.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Cost of such Unit as is set forth in Schedule B hereto opposite the rental payment date next succeeding the actual date of such Casualty Occurrence, or if there is a casualty after the Lease has terminated, the rental payment date immediately preceding the date of loss.

Casualty values will be adjusted as provided in § 3 hereof with respect to Units delivered after September 30, 1978.

Whenever any Unit shall suffer a Casualty Occurrence after termination of this Lease and before such Unit shall have been returned in the manner provided in §§ 11 or 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Lessor shall be entitled to recover possession of such Unit, and the Lessor appoints the Lessee its agent to dispose of such Unit or any component thereof, at the best price obtainable on an "as is, where is" basis without recourse to, or representation or warranty from the Lessor. The Lessee shall be entitled to the net proceeds of any sale to the extent they do not exceed the Casualty Value of such Unit and shall pay any excess to the Lessor.

In the event of the requisition for use by the United States Government (hereinafter called the Government) of any Unit during the term of this Lease or any renewal thereof not constituting a Casualty Occurrence, all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease or any renewal thereof, but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments

received by the Lessor or the Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof 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; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the term of this Lease or any renewal thereof, shall be paid over to, or retained by, the Lessor.

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

The Lessee will, at all times while this Lease is in effect, at its own expense, cause to be carried and maintained all risk property damage insurance in respect of the Units at the time subject hereto, and public liability insurance, at least in amounts and against risks customarily insured against by railroad companies on similar equipment owned by them and in amounts and against risks customarily insured against by the Lessee on similar equipment owned by it. Such public liability insurance shall be a policy containing not more than a \$2,000,000 deductible and insuring against loss of not less than \$50,000,000 per occurrence. Any policies of public liability insurance or property damage insurance carried in accordance with this paragraph shall (i) name the Lessor and the Beneficiaries and the Lenders as additional named insureds as to liability insurance or loss payees as to property damage insurance, as the case may be, as their respective interests may appear, (ii) require 30 days prior written notice of material change, cancellation or the removal of the Lessor or the Beneficiaries or the Lenders as named insureds as to liability insurance or loss payees as to property damage insurance, as the case may be, to the Lessor, the Beneficiaries and the Lenders, and (iii) shall provide that in respect of the interests of the Lessor, the Beneficiaries or the Lenders in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor, the Beneficiaries or the Lenders) and shall insure the Lessor and the Beneficiaries and the Lenders regardless of any breach or violation of any warranty, declaration, or condition contained in such policies by the Lessee or any other person (other than the Lessor, the Beneficiaries or the Lenders).

Upon the execution of this Lease, and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant hereto, the Lessee shall deliver to the Lessor and the Beneficiaries a certificate of insurance issued by an authorized representative of the insurers for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of a formal certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the formal certificate upon receipt thereof.

In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor for the cost thereof together with interest, on the amount of the cost to the Lessor of such insurance which the Lessee shall have failed to maintain, at the rate per annum specified in § 24 hereof.

§ 8. Reports. On or before April 30 in each year, commencing with the calendar year 1979, the Lessee will furnish to the Lessor and the Agent an accurate statement (a) setting forth as at the preceding December 31 the amount, description and identifying numbers of all Units then leased hereunder or covered by the Revolving Loan Agreement, the amount, description and identifying numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such statement) or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Agent may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the identifying numbers and markings required by § 5 hereof have been preserved or replaced. The Lessor or the Agent, at their sole cost and expense, shall have the right by their agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Agent may request during the continuance of this Lease.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. NEITHER THE LESSOR NOR THE BENEFICIARIES MAKE, HAVE MADE OR SHALL 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 NEITHER THE LESSOR NOR THE BENEFICIARIES MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT (EITHER UPON DELIVERY THEREOF TO THE LESSOR OR OTHERWISE), INTERFERENCE BY ANY PARTY OTHER THAN THE LESSOR OR THE BENEFICIARIES WITH THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE BENEFICIARIES AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of the Assignment and the Builder's Consent and the patent infringement and indemnification provisions of the Purchase Order; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. THE LESSOR SHALL HAVE NO RESPONSIBILITY OR LIABILITY TO THE LESSEE OR ANY OTHER PERSON WITH RESPECT TO ANY OF THE FOLLOWING: (i) ANY LIABILITY, LOSS OR DAMAGE CAUSED OR ALLEGED TO BE CAUSED DIRECTLY OR INDIRECTLY BY ANY UNITS OR BY ANY INADEQUACY THEREOF OR DEFICIENCY OR DEFECT THEREIN OR BY ANY OTHER CIRCUMSTANCES IN CONNECTION THEREWITH; (ii) THE USE, OPERATION OR PERFORMANCE OF ANY UNITS OR ANY RISKS RELATING THERETO; (iii) ANY INTERRUPTION OF SERVICE, LOSS OF BUSINESS OR ANTICIPATED PROFITS OR CONSEQUENTIAL DAMAGES; OR (iv) THE DELIVERY, OPERATION, SERVICING, MAINTENANCE, REPAIR, IMPROVEMENT OR REPLACEMENT OF ANY UNITS. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are satisfactory to the Lessee in their design, condition, material, workmanship, use, operation or performance, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on the character or use of the Equipment delivered.

The Lessee agrees, for the benefit of the Lessor and the Lenders, to comply in all respects (including without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable 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, prior to the expiration of the Lease or any renewal thereof, such laws or rules require any alteration, replacement, addition or modification of or to any part on any Unit, the Lessee will conform therewith at its own expense and the Lessor will have title thereto. Notwithstanding the preceding sentence, the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Agent, adversely affect the property or rights of the Lessor or the Lenders under this Lease, the Purchase Order, the Revolving Loan Agreement, the Lease Assignment or the Assignment.

Except as set forth in the first paragraph of § 7 and the second paragraph of § 9 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 and shall be removed by it upon the return of the Units pursuant to §§ 11 and 14 hereof, except to the extent such additions, modifications or improvements are subject to the next 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, or (ii) which were made in the course of ordinary maintenance of the Units or (iii) which are required for the operation or use of such Unit by the interchange rules of the Association of American Railroads and of the Interstate Commerce Commission,

or by any lawful rule of the Department of Transportation or other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Revolving Loan Agreement) shall immediately be vested in the Lessor and the Lenders as their respective interests may appear. At its option the Lessor may require the Lessee to remove any or all such parts, additions or replacements at the time the Units are returned to the Lessor pursuant to the provisions of § 11 or 14 hereof.

The Lessee, Lessor and Beneficiaries agree that any installations, additions and replacements which are made by the Lessee at its expense and which constitute accessions under this Section 9 shall be treated as additional rent and the Beneficiaries will include their respective shares of the fair market value of such installations, additions and replacements in gross income in the year in which they are made and, where appropriate, shall be entitled to the investment tax credit and depreciation deductions with respect to such installations, additions and modifications.

The Lessee shall pay, and shall protect, indemnify and hold the Lessor, the Beneficiaries, the Lenders and any assignee thereof, and their respective successors, assigns, agents and servants (hereinafter called Indemnified Persons), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising, or alleged to arise out of this Lease 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, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof, (ii) any latent and other defects whether or not discoverable by the Lessor or the Lessee, (iii) any claim for patent, trademark or copyright infringement, (iv) any claims based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or

maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessor, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease (except by the Lessor) 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; or (vii) any claim arising out of any of the Lessor's obligations under the Lease Assignment, the Revolving Loan Agreement, the Assignment or the Participation Agreement. The Lessee shall be obligated under this § 9, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 9 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this § 9, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person, as the case may be, in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against, however, the failure to give any such notice shall not relieve the Lessee of its obligations under this § 9. Upon the payment in full of any indemnities as contained in this § 9 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, it shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with respect to which Indemnified Person has been indemnified by the Lessee pursuant to this § 9 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made.

The indemnities contained in this § 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. Any indemnity payment pursuant to this § 9 shall be made directly to the Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise. The indemnities set forth in this §9 do not guarantee the Loan (as such term is defined in the Revolving Loan Agreement).

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 by the Lessor of the Units, the security interest of the Lenders in the Units or the leasing thereof to the Lessee.

§ 10. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein called an Event of Default) shall occur:

A. default shall be made in payment of any amount provided for in § 3, 7, 13 or 14 hereof, and such default shall continue for five days;

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

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

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

E. 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 or under the Consent or the Assignment, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee, hereunder or under the Consent or the Assignment), and such proceedings shall not 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), or all the obligations of the Lessee under this Lease or under the Consent or the Assignment 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 proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

F. an event of default set forth in Paragraph 6.01 of the Revolving Loan Agreement shall have occurred and be continuing;

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

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax losses of Federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units so terminated shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon may, upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Lessor or its agents, take or cause to be taken immediate possession of the Equipment, or one or more of the Units thereof, without liability to return to the Lessee any sums theretofore paid and free from all claims whatsoever, and may remove the same from possession and use of the Lessee or any other person and for such purpose may enter upon the premises of the Lessee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the

Lessee, subject to all mandatory requirements of due process of law; 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 which the Lessor, in its sole discretion, shall specify (x) a sum, with respect to each Unit, which represents (A) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental 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 over the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 6% per annum discount, to the extent permitted by law, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, plus (B) 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, plus (C) amounts due pursuant to the provisions of the Tax Indemnity Agreement dated as of the date hereof, between the Lessee and the Beneficiaries, or (y) a sum, with respect to each Unit, which represents (A) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental 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 over the then present value of the actual rentals for such Unit which Lessor shall have contracted to receive pursuant to any

lease in replacement of this Lease, such present value to be computed in each case on the basis of a 6% per annum discount, to the extent permitted by law, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, plus (B) an amount calculated pursuant to clause (B) of this § 10(b)(x), plus (C) an amount calculated pursuant to clause (C) of this § 10(b)(x), or (z) an amount, with respect to each Unit, equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the net proceeds of the sale of such Unit if sold, or, if not sold at such time, the Fair Market Sales Value (as hereinafter defined).

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

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

Except as otherwise provided in this Lease and the Assignment, the Lessee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Units, or any one or more thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Lessor's rights under this Lease and the Assignment and any and all rights of redemption.

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

The Lessee also agrees to furnish the Lessor, the Beneficiaries and the Agent, promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default under the 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.

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 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, ordinary wear and tear excepted, and meet the standards then in effect under the Interchange Rules of the Association of American Railroads applicable to railroad equipment of the same type as the Units. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

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

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

(c) transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, removal, re-installation, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, insure, maintain and keep the Units in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. At the Lessor's option, all gross 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 paid to the Lessor, or the Lessee shall pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which 0.028848% of the Cost of such Box Car for each such day exceeds all gross amounts earned with respect to such Box Car and received by the Lessor for such day.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney-in-fact 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 whomsoever shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under §§ 6, 7, 9 and 10 and the rights to receive the rentals payable under this Lease) may inure to the benefit of the Lessor's assigns (including, but not limited to, the Lenders).

So long as no Event of Default shall have occurred under this Lease or under the Revolving Loan Agreement, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the Assignment, but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Lenders or resulting from claims against the Lessor or the Lenders not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Lenders or the Lessee therein, and will promptly discharge any such lien, claim, security interest or encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as no Event of Default shall have occurred under this Lease or under the Revolving Loan Agreement, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, but only upon and subject to all the terms and conditions of this Lease and the Revolving Loan Agreement; provided, however, that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units, subject to §§ 11 and 14 hereof. The Lessee represents and warrants to the Lessor that the Units will be used, and are intended for use, in connection with interstate commerce.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its interest

under this Lease in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Participation Agreement, the Assignment and the Consent) into or with which it shall have become merged or consolidated or which shall have acquired its property 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.

§ 13. Renewal and Purchase Option. Provided that this Lease has not been earlier terminated and that 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 may by written notice delivered to the Lessor not less than six months prior to the end of the Basic Lease Term or any extended term of this Lease, as the case may be, elect to extend the term of this Lease in respect of all but not fewer than all of the Box Cars then covered by this Lease, for up to, but no more than, two consecutive additional five-year periods, the first five-year period commencing on the scheduled expiration of the Basic Lease Term and the second five-year period, if one is elected, commencing upon the expiration of the first extended term of this Lease, at the then Fair Market Rental Value (as hereinafter defined), payable quarterly in arrears in each year of the extended term. An election to extend the Lease pursuant to this § 13 shall be irrevocable.

Fair Market Rental Value shall be determined with respect to all of the Box Cars on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. If, after 30 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such rental 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, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers so appointed shall within 35 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental Value of the Units subject to the proposed extended term within 20 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental Value of the single appraiser appointed shall be final. If three appraisers shall be appointed, their determination shall be averaged, except that if one determination materially and substantially differs from the other two determinations, such determination shall be excluded when calculating the average, and such average shall be final and binding on the parties hereto as the Fair Market Rental Value. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental Value and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Lessor.

The Lessee, provided that 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, will have the option to purchase all, but not less than all, of the Box Cars upon the expiration of the Basic Lease Term or any extension thereof, for an amount in each case equal to the then Fair Market Sales Value thereof. Fair Market Sales Value shall be determined on the basis of, and shall be equal in amount to, the sum which would obtain in an arm's-length transaction between an informed and willing purchaser (other than a purchaser currently in

possession) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such sum. Fair Market Sales Value shall be as determined by agreement between the Lessor and the Lessee or, in the absence of such agreement, by independent appraisal utilizing as nearly as possible the procedure for appraisal for Fair Market Rental Value set forth in this § 13. The Lessee must give the Lessor notice in writing of its desire to exercise such purchase option not less than 180 days prior to the expiration of the Basic Lease Term with respect to Group I or any extension thereof. An election to purchase the Box Cars pursuant to this § 13 shall be irrevocable.

The options to purchase and renew which are available to the Lessee pursuant to this § 13 may not at any time be exercised concurrently. The exercise by the Lessee of any right of purchase shall constitute a waiver by the Lessee of all rights of renewal then or thereafter otherwise available hereunder for that Unit. The exercise by the Lessee of any right of renewal shall constitute a waiver by the Lessee of any right of purchase otherwise then available for that Unit, but any right of purchase or renewal provided for herein during any succeeding renewal term shall not be deemed waived. The Lessee shall not be permitted to concurrently exercise both a right to purchase and a right to renew and in the event it shall deliver any such notice to the Lessor, the same shall be deemed without effect for all purposes of this § 13.

§ 14. Return of Units upon Expiration of Term.
The Lessor intends to retain the Units for lease at the expiration of the term of this Lease to a subsequent lessee. As soon as practicable on or after the expiration of the original or extended term of this Lease with respect to any Unit not purchased by the Lessee, 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 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 180 days after the actual return of the last Box Car to be returned to the Lessor's possession and transport the same, at any time within such 180-day period, to any reasonable place within the area within which the Lessee operates within the continental United States, all as directed by the Lessor, the movement and storage of such

Units to be at the expense and risk of the Lessee without charge to the Lessor for insurance. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same. Each Unit returned to the Lessor pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, and (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. 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. All gross 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 paid to the Lessor. In the event any Unit is not assembled, delivered, and stored, as hereinabove provided, within 30 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 0.028848% of the Cost of such Box Car for each such day exceeds the actual earnings received by the Lessor on such Box Car for each such day.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the Lease Assignment, the Revolving Loan Agreement, the Purchase Order, the Builder's Consent and the Assignment to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will (at its own expense) undertake the filing, registering, deposit, and recording required of the Lessor under the Revolving Loan Agreement, including any filings under the Uniform Commercial Code, and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Agent for the purpose of proper protection, to their satisfaction, of the Lenders' and the Lessor's respective interests in the Units, or for the purpose of carrying

out the intention of this Lease, the Lease Assignment, the Revolving Loan Agreement, the Purchase Order, the Builder's Consent and the Assignment; and the Lessee will promptly furnish to the Agent and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion of counsel for the Lessee with respect thereto satisfactory to the Agent and the Lessor. This Lease and the Lease Assignment, the Revolving Loan Agreement, the Purchase Order, the Builder's Consent and the Assignment shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit and any Uniform Commercial Code filing shall be completed prior to such delivery and acceptance.

§ 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder, including without limitation §§ 3, 6, 7, 9 and 10 hereof, shall result in the obligation on the part of the Lessee promptly to pay to the extent legally enforceable, an amount equal to 12.5% per annum of the overdue rentals and other obligations for the period of time during which they are overdue.

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

(a) if to the Lessor, at 100 Renaissance Center, Detroit, Michigan 48243, attention of Corporate Agencies Administration, with copies to the Beneficiary Ford Motor Credit Company at Box 1729, The American Road, Dearborn, Michigan 48121, attention of Vice President-CIR Financing, to Beneficiary The Budd Leasing Corp. at 3155 West Big Beaver Road, Troy, Michigan 48084, and to Beneficiary Gould Leasing Inc. at 10 Gould Center, Rolling Meadows, Illinois 60008; Attention of Portfolio Manager;

(b) if to the Lessee, at 1310 Six Penn Center Plaza, Philadelphia, Pennsylvania 19104; Attention: Vice President and Treasurer; and

(c) if to the Lenders, at First Pennsylvania Tower, Centre Square Building, Philadelphia, Pennsylvania 19101; Attention: Roger C. Baldwin, Vice President;

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

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

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

§ 19. No Recourse. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Lessor are made and intended not as personal representations, undertakings and agreements of Manufacturers National Bank of Detroit, or for the purpose or with the intention of binding said bank personally, but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under said Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank or the Beneficiaries or on account of any representation, undertaking or agreement of said bank as Lessor, or the Beneficiaries, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee.

§ 20. Agreements for Benefit of Beneficiaries. All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9 and 10 and the right

to receive the rentals payable under this Lease) shall inure to the benefit of the Beneficiaries and the Beneficiaries' assigns under the Trust Agreement.

§ 21. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Agent pursuant to the Lease Assignment to the Agent shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

§ 23. Obligations of Lessor Under the Revolving Loan Agreement; Additional Rentals. In the event that the Lessor shall become obligated to make any payment or to perform any obligations pursuant to the Revolving Loan Agreement not covered by the provisions of this Lease, the Lessee shall pay such additional rentals hereunder and perform such obligations so that all of the Lessor's obligations pursuant to the Revolving Loan Agreement shall be fully performed, without regard for any limitation of liability of the Lessor contained in the Revolving Loan Agreement plus an amount which, after subtracting all net Federal, state or local taxes which are or will be required to be paid by the Beneficiaries, as shall be required to maintain the Beneficiaries' net after-tax cash flows and return on their investments. This Section is not to be construed as a guaranty of the Loan.

§ 24. 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 itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at a rate equal to the lesser of 13% per annum or the maximum amount permitted by applicable law, shall be payable by the Lessee upon demand.

§ 25. Immunities, Satisfaction of Undertakings.

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

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

MANUFACTURERS NATIONAL BANK OF
DETROIT, as trustee, Lessor

By _____
Authorized Officer

CONSOLIDATED RAIL CORPORATION,
Lessee

By _____
Title:

STATE OF MICHIGAN)
) ss.:
COUNTY OF WAYNE)

On this _____, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of MANUFACTURERS NATIONAL BANK OF DETROIT, that one of the seals affixed to the foregoing instrument is the seal of said national bank, as such Trustee and not in its individual capacity, that said instrument was signed and sealed on behalf of said national bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national bank in said capacity.

Notary Public

[Notarial Seal]

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SCHEDULE A TO LEASE

<u>Type</u>	<u>Quantity</u>	<u>Lessee's Identifying Numbers</u>
Box Cars	162	CR 223301 through CR 223462

SCHEDULE B TO LEASE

Casualty Values†

<u>Date</u> (10th Day of Each Month)	<u>Percentage of Cost</u> <u>Box Cars</u>	<u>Date</u> (10th Day of Each Month)	<u>Percentage of Cost</u> <u>Box Cars</u>
10/78 & Prior Thereto	103.26	4/89	35.31
1/79	103.68	7/89	33.48
4/79	103.90	10/89	31.68
7/79	104.10	1/90	29.88
10/79	104.17	4/90	28.09
1/80	104.14	7/90	26.36
4/80	104.03	10/90	24.67
7/80	103.78	1/91	24.29
10/80	103.42	4/91	23.91
1/81	102.96	7/91	23.55
4/81	102.44	10/91	23.19
7/81	101.73	1/92	22.82
10/81	100.67	4/92	22.42
1/82	93.61	7/92	22.03
4/82	92.80	10/92	21.63
7/82	91.90	1/93	21.21
10/82	90.93	4/93	20.76
1/83	89.90	7/93	20.39
4/83	88.81	10/93	20.08
7/83	87.55	1/94 & Thereafter	20.00
10/83	85.94		
1/84	78.35		
4/84	77.01		
7/84	75.60		
10/84	74.13		
1/85	72.62		
4/85	71.07		
7/85	69.38		
10/85	67.34		
1/86	59.41		
4/86	57.71		
7/86	55.96		
10/86	54.17		
1/87	52.34		
4/87	50.48		
7/87	48.58		
10/87	46.67		
1/88	44.75		
4/88	42.83		
7/88	40.93		
10/88	39.06		
1/89	37.19		

† Subject to adjustment pursuant to § 3 of the Lease.

PARTICIPATION AGREEMENT PURSUANT TO CONRAIL 1978
TRUST NO. II

PARTICIPATION AGREEMENT

among

CONSOLIDATED RAIL CORPORATION,

FIRST PENNSYLVANIA BANK N.A.,
as Agent and Lender,

CENTRAL NATIONAL BANK OF CLEVELAND,

THE FIDELITY BANK,

FORD MOTOR CREDIT COMPANY,

THE BUDD LEASING CORP.,

GOULD LEASING INC.,

and

MANUFACTURERS NATIONAL BANK OF DETROIT,
as Trustee

[covering 162 high roof cushioned underframe
multi-purpose box cars]

Dated as of January 2, 1978

PARTICIPATION AGREEMENT PURSUANT
TO CONRAIL 1978 TRUST NO. II

PARTICIPATION AGREEMENT dated as of January 2, 1978 (hereinafter called this Agreement) among CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (hereinafter called the Lessee), FIRST PENNSYLVANIA BANK N.A., a national banking association, as Lender and Agent (hereinafter called the Agent), CENTRAL NATIONAL BANK OF CLEVELAND, a national banking association, THE FIDELITY BANK, a Pennsylvania banking corporation (the foregoing banks, including the Agent in its capacity as lender, hereinafter called the Lenders), FORD MOTOR CREDIT COMPANY, a Delaware corporation, THE BUDD LEASING CORP., a Delaware corporation, GOULD LEASING INC., a Delaware corporation (hereinafter collectively called the Beneficiaries), MANUFACTURERS NATIONAL BANK OF DETROIT, a national banking association, not individually but solely in its capacity as Trustee under a Restated and Amended Trust Agreement for Conrail 1978 Trust No. II restated and amended as of February 15, 1978 and dated as of the date hereof (hereinafter called the Trust Agreement) (the latter national banking association hereinafter called the Trustee).

WHEREAS the Lessee is entering into a Purchase Agreement dated as of May 5, 1978 (hereinafter called the Purchase Order) with Whittaker Corporation (Berwick Forge and Fabricating Division) (hereinafter called the Builder), wherein the Builder has agreed to manufacture, sell and deliver to the Lessee the units of railroad equipment described in Schedule A to the Lease (hereinafter defined), which will consist of high roof cushioned underframe multi-purpose box cars (hereinafter called the Box Cars or the Equipment or the Unit or Units);

WHEREAS the Lessee is assigning its interests in the Purchase Order pursuant to an Assignment of Purchase Order dated as of January 2, 1978 (hereinafter called the Assignment) to the Trustee in substantially the form attached hereto as Annex C, and the Builder is consenting to the Assignment pursuant to a Consent to Assignment of Purchase Order dated as of the date hereof (hereinafter called the Builder's Consent) in substantially the form attached hereto as Annex D;

WHEREAS the trust under the Trust Agreement (hereinafter called the Trust) is entering into a Revolving Loan Agreement dated as of the date hereof (hereinafter called the Revolving Loan Agreement) with the Lenders in substantially the form attached hereto as Annex B, pursuant to which 65% of the aggregate Cost of the Equipment (as defined in the Trust Agreement) will be loaned to the Trust to be applied for the purchase of the Equipment and payment of Transaction Costs (as defined in the Trust Agreement) (the loan hereinafter called the Loan), and under which the Trustee will execute an Assignment and Security Agreement dated as of the date hereof (hereinafter called the Lease Assignment) in substantially the form attached hereto as Annex E, and the Lessee will execute a Consent to Assignment and Security Agreement dated as of the date hereof (hereinafter called the Consent) in substantially the form attached hereto as Annex F;

WHEREAS the Lessee will lease the Equipment from the Trustee pursuant to a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) in substantially the form attached hereto as Annex A;

NOW, THEREFORE, in consideration of the agreements and the covenants hereinafter contained, the parties hereto hereby agree as follows:

1. On or before the First Delivery Date (as defined in Paragraph 1.21 of the Revolving Loan Agreement), the Lessee will assign, transfer and set over unto the Trustee, its successors and assigns all the right, title and interest of the Lessee in and to the Purchase Order, insofar as the Purchase Order relates to the Equipment; provided, however, that it is understood and agreed that all obligations of the Trustee to the Builder under the Purchase Order shall be exclusively and completely governed by, and subject to, the conditions provided herein and in the Assignment and the Lease Assignment.

The Beneficiaries will cause the Trustee to enter into the Assignment and pursuant thereto to purchase, as hereinafter provided, the Equipment having an aggregate Invoiced Purchase Price, which, when added to the Transaction Costs, shall not exceed the Cost of the Equipment.

On or before the First Delivery Date (i) the Trustee and the Lessee will enter into the Lease, (ii) the Trustee will enter into the Lease Assignment with the Lenders and (iii) the Lessee will consent to said Lease Assignment pursuant to the Consent.

The closing date or dates for Equipment delivered to, and accepted by, the Trustee pursuant to the Purchase Order (hereinafter called the Closing Date or Dates) shall be the tenth of each calendar month for deliveries and acceptances of the Units through the end of the previous month. Subject to the requirements for delivery and acceptance hereunder and under the Lease, the Trust Agreement and the Revolving Loan Agreement, the Trustee will pay that portion of the Invoiced Purchase Price due for Equipment delivered and accepted with respect to that Closing Date, less 65% of such part of the Invoiced Purchase Price and, in the case of the Final Closing Date (as defined in Paragraph 2 hereof) the Transaction Costs, less 65% of the Transaction Costs (which latter amounts, in both cases, shall be paid by the Agent for the account of the Trustee pursuant to the Revolving Loan Agreement).

If the transactions contemplated by this Agreement are not consummated, the Lessee hereby agrees to pay an amount equal to the Transaction Costs to the parties entitled thereto.

The Lessee covenants with the Beneficiaries, the Trustee and the Builder as third party beneficiaries hereof that, in the event of the exclusion of any Unit from the Purchase Order pursuant to § 2 of the Lease and this Paragraph 1 the Lessee will accept all such Units completed and delivered by or available for delivery from the Builder and pay the full purchase price therefor when due, all in accordance with the terms of the Purchase Order, and the Trustee will reassign, transfer and set over to the Lessee all the right, title and interest of the Trustee in and to the Units so excluded and in and to the Purchase Order to the extent relating thereto and the Trustee shall have no further obligation with respect thereto.

The term "Invoiced Purchase Price" as used herein shall mean the base price or prices set forth in Annex H hereto as so increased or decreased by agreement among the Builder, the Trustee and the Lessee and as set forth in the Builder's invoice or invoices delivered to the Trustee (hereinafter called the Invoice or Invoices) upon delivery of the Units and, if the Invoiced Purchase Price is other than the base price or prices set forth in Annex H, the Invoice or Invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Trustee. If on any Closing Date an amount equal to the sum of the aggregate

Invoiced Purchase Price of Equipment for which settlement has been and is then being made plus the portion of the maximum amount of Transaction Costs allocable to such Equipment would, but for the provisions of this sentence, exceed the Cost of the Equipment (or such higher amount as the Trustee may at its option agree to prior to delivery of any Unit or Units that, but for such agreement, would be excluded from this Agreement), such Unit or Units then proposed to be settled for and specified by the Trustee, as will, after giving effect to such exclusion, reduce such sum to not more than the Cost of the Equipment plus the portion of the maximum amount of Transaction Costs allocable to such Equipment (or such higher amount as aforesaid) shall be excluded from this Agreement and the Lease and purchased by the Lessee as set forth in this Paragraph 1.

In no event will acceptances be permitted after December 31, 1978.

Pursuant to the Assignment and the Lease Assignment, the Lenders will have been granted a security interest by the Trustee in the Equipment, except as specifically excepted by the Lease Assignment. Also pursuant to the Lease Assignment, the Lenders will acquire a security interest in the Lease.

2. Subject to the terms and conditions hereof and of the Revolving Loan Agreement, each Lender shall pay to the Agent not later than 11:00 a.m. Philadelphia time on each Closing Date that Lender's Proportionate Share (as defined in the Revolving Loan Agreement) of the loan pursuant to the Revolving Loan Agreement, with respect to the Equipment to be purchased on such Closing Date, and on the Final Closing Date such Lender's Proportionate Share of the Transaction Costs. Subject to the terms and conditions hereof and of the Revolving Loan Agreement, upon receipt by the Agent of a Proportionate Share from each Lender the Agent shall immediately make payment directly to the Builder and to the parties to whom Transaction Costs (as defined in the Trust Agreement) are then due and owing, each as their interests shall appear, for the account of the Trustee, that Proportionate Share or Shares which shall be an amount equal to 65% of that part of the Cost of the Equipment (as defined in the Trust Agreement) due for deliveries of Equipment with respect to that Closing Date, or at the Final Closing 65% of the Transaction Costs, as the case may be. Payment by the Lenders and the Agent shall be in immediately available federal funds. The Agent shall give each Lender at least three business days' written notice of each Closing Date and the Proportionate Share due from that Lender.

On the first Closing Date, upon payment to the Builder by the Agent of any amount required to be paid by the Lenders on the first Closing Date pursuant to this Paragraph 2, the Trustee will on behalf of the Trust as borrower under the Revolving Loan Agreement execute and deliver to the Agent an interim note (hereinafter called the Interim Note or Notes) in favor of each Lender dated the date of payment substantially in the form annexed hereto as Annex I.

On the Final Closing Date (which shall be October 10, 1978, or January 10, 1979, as described in the Revolving Loan Agreement):

(a) the then outstanding principal balance under the Interim Notes shall be placed on a term loan basis;

(b) the Trustee shall execute and deliver replacement notes (hereinafter called the Replacement Notes) substantially in the form annexed hereto as Annex J for the Interim Notes, in the respective principal amount of each Lender's Proportionate Share of the principal amount then outstanding under the Interim Notes;

(c) the Trustee shall pay all interest then accrued on the Interim Notes; and

(d) upon receipt of its Replacement Note, each Lender shall cancel its Interim Note and return it to the Trustee.

As soon as practicable after the delivery of the Replacement Notes, the Trustee will deliver to the Agent a schedule of payments reflecting the dates and amounts of principal and interest payments to be made in respect of each Replacement Note. Each Lender, simultaneously with the final payment to it of all amounts payable in respect of its Replacement Note, will surrender such Replacement Note to the Trustee.

The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in Detroit, Michigan or Philadelphia, Pennsylvania are authorized or obligated to remain closed. All interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months.

3. The Lessee represents and warrants to the Beneficiaries, the Trustee and the Lenders as follows:

(a) The Lessee has not directly or indirectly offered or sold any interest in the Trust or other securities or the Loan to, solicited offers to buy any interest in the Trust or other securities or the Loan from, or otherwise approached or negotiated in respect of the purchase or sale or other disposition of any interest in the Trust or other securities or the Loan with, any person so as to require registration of the interest in the Trust or any other security involved in the transactions contemplated hereby or the making of the Loan under the Securities Act of 1933, as amended. The Lessee will not directly or indirectly offer any interest in the Trust or other securities, or the Loan or the Notes (as defined in the Revolving Loan Agreement) thereunder to, or solicit any offer to buy any thereof from any other person or approach or negotiate with any other person in respect thereof, so as to require registration of the sale of any interest in the Trust or any other security involved in the transactions contemplated hereby or the Loan or the Notes thereunder under said Securities Act.

(b) The Lessee is a corporation duly incorporated, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and is duly qualified to do business in and is in good standing in such other jurisdictions in which the failure to so qualify or be in good standing could impair its ability to perform the business and activities of the Lessee.

(c) The Lessee has corporate power and authority and legal right to carry on its business as now conducted, and is duly authorized and empowered to execute and deliver this Agreement, the Assignment, the Lease, the Purchase Order, the Consent and the Tax Indemnity Agreement (as hereinafter defined) and to fulfill and comply with the terms, conditions and provisions hereof and thereof; this Agreement, the Assignment, the Lease, the Consent and the Tax Indemnity Agreement have been duly authorized, and have been, or will be on or before delivery of any Unit, duly executed and delivered and, assuming due authorization, execution and delivery thereof by the

other parties thereto, constitute or will then constitute valid, legal and binding agreements, enforceable in accordance with their terms.

(d) There are no actions, suits or proceedings (whether or not purportedly on behalf of the Lessee) pending or (to the knowledge of the Lessee) threatened against or affecting the Lessee, or any property rights of the Lessee at law or in equity, or before any commission or other administrative agency, which could materially and adversely affect the condition, financial or other, of the Lessee or its ability to perform its obligations under this Agreement or the Lease, except as described in (i) Exhibit L to the placement memorandum dated November 14, 1977 from the Lessee to prospective equity purchasers of the Equipment and (ii) in Appendix II to the Memorandum for Private Investors dated as of February 15, 1978, as supplemented by the Second Supplement thereto dated July 5, 1978; and the Lessee is not to its knowledge in default with respect to any order or decree of any court or governmental commission, agency or instrumentality.

(e) Other than its Financing Agreement with the United States Railway Association dated March 12, 1976, the Lessee is not a party to any agreement or instrument or subject to any charter or other corporate restriction materially and adversely affecting its business, operations, property, assets, or condition, financial or other.

(f) The Lessee has furnished to the Beneficiaries, the Lenders and the Trustee, consolidated balance sheets of the Lessee as of December 31, 1977, and March 31, 1978, and related consolidated statements of income and retained earnings for the periods then ended. Such financial statements are in accordance with the books and records of the Lessee and have been prepared in accordance with accounting principles required for railroads by the Interstate Commerce Commission and in accordance with generally accepted accounting principles, applied on a consistent basis throughout the periods covered by the financial statements. The financial statements present fairly the financial condition of the Lessee at such dates and the results of its operations and changes in its financial position for such periods; from the date of the last such balance sheet up to and including the date of execution of

this Agreement, except as disclosed in the Memorandum for Private Investors dated as of February 15, 1978, as supplemented by the First and Second Supplement thereto dated as of April 26 and July 5, 1978, there has not been any material adverse change in the assets, liabilities, business or condition, financial or other, of the Lessee.

(g) Neither the execution and delivery of this Agreement, the Lease, the Assignment, the Purchase Order, the Consent or the Tax Indemnity Agreement nor the consummation of the transactions herein and therein contemplated nor the fulfillment of, or compliance with, the terms and provisions hereof and thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of the charter (as amended) or the by-laws (as amended) of the Lessee, or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Lessee is now a party or by which it or its property may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any property of the Lessee or upon the Equipment pursuant to the terms of any such agreement or instrument, other than the encumbrance created by the Lease, the Assignment, the Builder's Consent, the Lease Assignment, and the Revolving Loan Agreement in and to the Equipment.

(h) Neither the execution and delivery by the Lessee of this Agreement, the Lease, the Assignment, the Purchase Order, the Consent or the Tax Indemnity Agreement nor the consummation of the transactions herein and therein contemplated nor the fulfillment of, or compliance with, the terms and provisions hereof and thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court or governmental instrumentality in each case applicable to the Lessee.

(i) The Lessee has all patents, patent rights, licenses, trademarks, trademark rights, trade names, trade name rights and copyrights which the Lessee considers necessary to the conduct of its business as presently operated, or proposed to be operated.

(j) No authorization or approval is required from any governmental or public body or authority in connection with the execution and delivery by the Lessee of this Agreement, the Lease, the Assignment, the Purchase Order, the Tax Indemnity Agreement or the Consent, or the fulfillment of or compliance with the terms, conditions and provisions hereof and thereof.

(k) Except as to those tax matters referred to in the Memorandum for Private Investors dated as of February 15, 1977, the Lessee has filed all foreign, Federal, state and local tax returns which are required to be filed, and has paid or made provisions for the payment of all taxes which have or may become due pursuant to said returns or pursuant to any assessment received by it, other than taxes which are being contested in good faith with due diligence and by appropriate proceedings and which in the aggregate do not involve material amounts for which adequate reserves have not been established.

(l) Neither the Beneficiaries, the Agent, the Lenders nor the Trustee will, on any Closing Date, by virtue of the transactions contemplated by this Agreement, be required to obtain any authorization or approval from nor, except with respect to the Equipment, will any of them be subject to regulation by any transportation authority of any State of the United States or the District of Columbia or the Interstate Commerce Commission or any other Federal governmental body or authority having jurisdiction over the Equipment.

(m) The Lessee is not entering into this Agreement or the Lease, or any other transaction contemplated hereby and thereby, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it, the Beneficiaries, the Builder, the Trustee, the Agent or any Lender is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974 (hereinafter called ERISA). The Lessee covenants that it will not sublease the Equipment subject to the Lease to any person which is at the time a party in interest with respect to any employee benefit plan the assets of which were

used by the Beneficiaries in making its investment pursuant to this Agreement, or any Lender in making the Loan pursuant to the Revolving Loan Agreement, all within the meaning of ERISA.

(n) Prior to the First Delivery Date Lessee will cause Uniform Commercial Code filings to be made with respect to the Lenders' security interest in the Equipment, and the Revolving Loan Agreement, the Assignment, the Lease, the Lease Assignment, the Purchase Order and the Builder's Consent will have been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act, and such recordation will protect the Lenders' and the Trustee's interests in and to the Units and the Lease and no other filing, recording or deposit (or giving of notice) with any other Federal, state or local government is necessary in order to protect the interests of the Lenders or the Trustee under the Revolving Loan Agreement, the Assignment, the Lease, the Lease Assignment, the Purchase Order or the Builder's Consent or in and to the Units in any State of the United States or in the District of Columbia.

(o) Upon delivery and the acceptance of each Unit under the Purchase Order, the Trustee will have good and marketable title to such Unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Builder under the Builder's Consent, the Lenders under the Revolving Loan Agreement and the Lease Assignment, and the rights of the Lessee under the Lease; provided, however, that in making such representation Lessee may rely on the opinions of counsel for the Builder described in Paragraph 3.01 of the Revolving Loan Agreement; and provided further, that such representation and warranty shall not extend to claims, liens, security interests or other encumbrances arising other than through or pursuant to the rights and interests of the Lessee.

(p) With the exception of the Financing Agreement with the United States Railway Association dated March 12, 1976, the Lessee is not in default, and no event has occurred which, with the giving of notice

or lapse of time or both would be a default, under any of the terms, conditions or provisions of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Lessee is a party or by which it or its property may be bound, nor of any law, or any material regulation, order, injunction or decree of any court or any governmental instrumentality.

4. Each Beneficiary, severally but not jointly, represents and warrants to the Lessee and the Lenders as follows:

(a) Such Beneficiary is a corporation duly incorporated, validly existing and in good standing under the laws of its state of incorporation.

(b) Such Beneficiary has the corporate power and authority and legal right to carry on its business as now conducted and is duly authorized and empowered to execute and deliver this Agreement and the Trust Agreement, and to fulfill and comply with the terms, conditions and provisions hereof and thereof.

(c) The Trust Agreement has been duly authorized, executed and delivered by the Beneficiary and, assuming due authorization, execution and delivery by the Trustee and by the other Beneficiaries, is a legal and valid instrument binding on it.

(d) Such Beneficiary's equity investment in the Equipment (pursuant to the Trust Agreement and this Agreement) is being made with its general assets, and not directly or indirectly with the assets of, or in connection with any arrangement or understanding in any way involving, any employee benefit plan (other than a governmental plan), all within the meaning of ERISA. Such Beneficiary covenants that it will not transfer its interest acquired pursuant to this Agreement and the Trust Agreement directly or indirectly to, or in connection with any arrangement or understanding in any way involving, any employee benefit plan with respect to which the Lessee, the Beneficiaries, the Builder, the Trustee, the Agent or any Lender is at the time a party in interest, all within the meaning of ERISA.

5. The Trustee represents and warrants to the Beneficiaries, the Lessee and the Lenders as follows:

(a) The Trustee is a national banking association duly chartered, validly existing and in good standing under the laws of the United States applicable to national banking associations.

(b) The Trustee has the corporate power and authority and legal right to carry on its business as now conducted, and is duly authorized and empowered to execute and deliver the Trust Agreement and to perform, fulfill and comply with the terms, conditions and provisions thereof.

(c) This Agreement, the Trust Agreement, the Revolving Loan Agreement, the Lease, the Assignment and the Lease Assignment have been duly authorized, executed and delivered by the Trustee; and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute legal, valid and binding agreements, enforceable in accordance with their terms against the Trust or, in the case of the Trust Agreement, against the Trustee.

6. Each Lender represents that it is making its Proportionate Share of the Loan for its own account and not with a view to, or for sale in connection with, the distribution of the same, nor with any present intention of distributing or selling the same, but subject, nevertheless, to any requirement of law that the disposition of its property shall at all times be within its control.

The interests of the Lenders hereunder have not been registered under the Securities Act of 1933 and each Lender agrees that it will not transfer its interest hereunder in violation of said Act. Each Lender hereby agrees that any transfer shall be upon the express condition that the transferee thereof shall be bound by the terms of this Agreement and further, that such transferee shall be a bank or trust company located in any state of the United States or the District of Columbia having capital and surplus aggregating at least \$50,000,000. Prior to any such transfer such Lender shall notify the Agent in writing thereof and

the Agent shall cause to be prepared and delivered to such Lender an appropriate agreement, to be entered into among such Lenders, such transferee and the Agent, evidencing such transfer upon the terms hereof.

Each Lender further represents that it is not making its Proportionate Share of the Loan directly or indirectly with the assets of, or in connection with any arrangement or understanding in any way involving, any employee benefit plan with respect to which the Lessee, the Beneficiaries, the Builder or the Trustee in its individual capacity is a party in interest, all within the meaning of ERISA, nor will it transfer its interests in the Loan directly or indirectly to, or in connection with, any such arrangement or understanding.

7. The obligation of each Lender to make payment to the Agent on the First Closing Date in accordance with Paragraph 2 hereof and the obligation of the Agent to make payment on the First Closing Date, for the account of the Trustee, to the Builder pursuant to the Revolving Loan Agreement out of funds deposited with it pursuant to Paragraph 2 hereof (all of such funds being hereinafter collectively called the Lenders' Funds) shall be subject to the terms and conditions contained in Paragraph 3.01 of the Revolving Loan Agreement.

8. The obligation of the Beneficiaries to furnish funds and to cause the Trustee to make payment for the Units on the first Closing Date shall be subject to the receipt by the Trustee and the Beneficiaries of the documents, certificates and opinions of counsel, addressed to the Beneficiaries and Trustee, listed in Paragraph 3.01 of the Revolving Loan Agreement and of an executed Tax Indemnity Agreement, and from the Builder of the executed Bills of Sale and Invoices.

The Lessee shall furnish the Agent, the Lenders, the Beneficiaries and the Trustee at least ten business days' prior written notice of the First Delivery Date, which notice may be waived by the Agent, the Lenders, the Beneficiaries and the Trustee. Insofar as possible, the documents, certificates and opinions required pursuant to Paragraphs (7) and (8) hereof will be provided to each of the parties intended to receive such documents, certificates and opinions in draft form at least five business days prior to the First Delivery Date.

9. The obligation of the Lenders and the Beneficiaries to furnish funds and to cause the Agent or the Trustee, as the case may be, to make payment for the Units (in the case of the Agent, for the account of the Trustee) on each Closing Date subsequent to the first Closing Date shall be subject to the receipt by the Agent, the Beneficiaries and the Trustee of the documents, certificates and opinions of counsel listed in Paragraph 3.02 of the Revolving Loan Agreement, and receipt by the Beneficiaries and the Trustee from the Builder of the executed Bills of Sale and Invoices with respect to such Units.

It is understood and agreed that no Unit shall be delivered and accepted under the Purchase Order, the Assignment or the Builder's Consent:

(a) if the documents, certificates and opinions required to be delivered pursuant to Paragraphs 7, 8 or 9 on and with respect to that delivery date shall not have been delivered as aforesaid, or if

(i) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee 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); or

(ii) any other proceedings shall be commenced by or against the Trust, the Trustee or the Lessee, for any relief which includes, or might result in, any modification of the obligations of the Trust, the Trustee or the Lessee, under the Lease, the Revolving Loan Agreement, the Consent, or the Assignment 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 readjustment of the obligations of the Trust, the Trustee or the Lessee, under the Lease, the Revolving Loan Agreement, the Assignment or

the Consent), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue); or

(b) if an Event of Default (as set forth in the Revolving Loan Agreement or the Lease) or any event which with the lapse of time or the giving of notice or both could constitute an Event of Default shall have occurred and be continuing; or

(c) if a material adverse change shall have occurred in the Lessee's financial condition since February 15, 1978; or

(d) if the Agent, Trustee and Beneficiaries shall not have received on the tenth day of the most recent calendar month (including the then current calendar month) succeeding the First Delivery Date, in form and substance satisfactory to each of them,

(i) an opinion of Ronald Dietrich, Esq., Vice President-Law for the Lessee, dated as of such tenth day confirming that, as of such date, the opinion set forth in Paragraph 3.01(A)(17) of the Revolving Loan Agreement is correct;

(ii) a certificate of an executive officer of the Lessee dated as of such tenth day confirming that, as of such date, the certificate set forth in Paragraph 3.01(A)(15) of the Revolving Loan Agreement is correct and the representations and warranties contained therein are correct as if made on such tenth day; and

(iii) a certificate of an officer of the Trustee dated as of such tenth day, confirming that, as of such date, the certificate set forth in Paragraph 3.01(A)(14) of the Revolving Loan Agreement is correct.

10. The Lenders and the Agent agree as follows:

The Agent will accept payments made to it by or for the account of the Trustee pursuant to the Revolving Loan Agreement on account of the principal of or interest on the Loan and, after deduction of expenses of enforcement, if any, will apply such payments promptly, first, to the pro rata payment of interest payable to the Lenders on their respective interests in the Loan and second, to the pro rata payment of their respective interests in the principal of the Loan, with the excess to be paid to the Trustee.

The Agent will accept all sums paid to it pursuant to the Revolving Loan Agreement with respect to Casualty Occurrences (as defined in the Lease) and will apply such sums to the pro rata prepayment of each of the installments of the Loan remaining unpaid (in proportion to the principal amount of the Loan represented by each such installment), without premium, together with interest accrued and unpaid on such installments and will distribute such prepayment and interest thereon pro rata among the Lenders in accordance with their respective interests in the installments of the Loan being prepaid. The Agent will furnish to each Lender a revised schedule or schedules of payments showing the reduction of such holder's interest in the installments of the Loan remaining unpaid and the interest payable thereon.

11. The Lessee shall deliver to the Trustee, the Beneficiaries, the Agent and each Lender (i) as soon as available and in any event within 90 days after the end of each fiscal year of the Lessee, a certificate signed by the President, any Vice President, the Treasurer or any Assistant Treasurer of the Lessee stating that a review of the activities of the Lessee during such year has been made under his supervision with a view to determining whether the Lessee has kept, observed, performed and fulfilled all of its obligations under this Agreement, the Lease, the Assignment and the Consent and that to the best of his knowledge the Lessee during such year has kept, observed, performed and fulfilled each and every covenant, obligation and condition contained herein and in the Lease, the Assignment and the Consent, or if an Event of Default (as defined in the Lease) shall exist or if an event has occurred and is continuing which, with the giving of notice or the passage of time or both, would constitute an Event of Default, specifying such Event of Default and all such events and the nature and status thereof, and what action the Lessee has taken or is taking or proposes to

take with respect thereto; (ii) as soon as available and in any event within 45 days after the end of each quarterly period (except the last) of each fiscal year of the Lessee, a balance sheet of the Lessee (Form CBS as filed with the Interstate Commerce Commission or any form substituted therefor) as at the end of such period, and an income statement of the Lessee (Form RE&I as filed with the Interstate Commerce Commission or any form substituted therefor) for the period beginning on the first day of such quarterly period and ending on the date of such balance sheet, setting forth comparative figures for the corresponding period of the preceding fiscal year, all in reasonable detail and certified by the principal financial officer of the Lessee; (iii) as soon as available and in any event within 120 days after the end of each fiscal year of the Lessee, a copy of the Lessee's annual report which shall include the balance sheet, income statement and statement of retained income of the Lessee, all stated in accordance with generally accepted accounting principles and certified by independent auditors of the Lessee and by the principal accounting officer of the Lessee; (iv) Form R-1 as filed with the Interstate Commerce Commission or any form substituted therefor; and (v) any other report reasonably required by the Trustee or any Lender.

12. Lessee has entered a Tax Indemnity Agreement dated as of the date hereof (hereinafter called the Tax Indemnity Agreement) substantially in the form attached as Annex G hereto with the Beneficiaries wherein the Lessee has indemnified the Beneficiaries for certain tax benefits anticipated to flow from this Agreement. The Lessee agrees to promptly make any and all reports and payments required by the Tax Indemnity Agreement. The Tax Indemnity Agreement is for the sole benefit of the Beneficiaries, and it is agreed that the Lenders have no interest whatsoever therein.

13. The Agent shall not transfer or assign any of its interests hereunder, under the Lease Assignment or under the Revolving Loan Agreement or the Notes thereunder without the written consent of the Beneficiaries, except to a bank or trust company or other financial institution having its principal place of business in the United States, and having a combined capital and surplus of at least \$50,000,000, which assumes all of the obligations of the Agent hereunder, under the Lease Assignment and under the Revolving Loan Agreement. Such assignment or transfer shall not contravene any representation or warranty of the Agent hereunder or under the Revolving Loan Agreement.

14. All documents and funds deliverable hereunder to the Agent or to any Lender shall be delivered to the Agent at its address at First Pennsylvania Tower, Centre Square Building, Philadelphia, Pennsylvania 19101, Attention: Roger C. Baldwin, or to such other address or addresses as the Agent may specify.

All documents deliverable hereunder to the Trustee shall be delivered to it at its address at 100 Renaissance Center, Detroit, Michigan 48243, attention of Corporate Agencies Administration. All funds deliverable hereunder to the Trustee shall be wire transferred to it at said address to such account as the Beneficiaries may specify, or as otherwise agreed between the Beneficiaries and the Trustee.

All documents and funds deliverable hereunder to the Lessee shall be delivered to it at its address at Six Penn Center, Philadelphia, Pennsylvania 19104, Attention of Vice President and Treasurer.

All documents deliverable hereunder to the Beneficiaries shall be delivered as follows:

Ford Motor Credit Company
Box 1729
The American Road
Dearborn, Michigan 48121

Attention: Vice President,
CIR Financing

The Budd Leasing Corp.
3155 West Big Beaver Road
Troy, Michigan 48084

Attention: President

Gould Leasing Inc.
10 Gould Center
Rolling Meadows, Illinois 60008

Attention: Manager of Portfolio Operations.

15. In the event that the Agent, the Trustee or the Lessee shall have knowledge of an Event of Default under the Lease or the Revolving Loan Agreement, such party shall give prompt telephonic notice (confirmed in writing) thereof to the parties hereto.

16. The terms of this Agreement and all rights and obligations of the parties hereto hereunder shall be governed by the laws of the State of Michigan. Such terms, rights and obligations may not be changed orally, but may be changed only by an agreement in writing signed by the party against whom enforcement of such change is sought.

17. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument.

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

CONSOLIDATED RAIL CORPORATION

by _____

FIRST PENNSYLVANIA BANK N.A.,
in its capacity as Agent and
as Lender

by _____

CENTRAL NATIONAL BANK OF CLEVELAND

by _____

THE FIDELITY BANK

by _____

MANUFACTURERS NATIONAL BANK
OF DETROIT,
as Trustee

by _____

FORD MOTOR CREDIT COMPANY

by _____

THE BUDD LEASING CORP.

by _____

GOULD LEASING INC.

by _____

- Annex A: Lease of Railroad Equipment
- Annex B: Revolving Loan Agreement
- Annex C: Assignment of Purchase Order
- Annex D: Consent to Assignment of Purchase Order
- Annex E: Assignment and Security Agreement
- Annex F: Consent to Assignment and Security Agreement
- Annex G: Tax Indemnity Agreement
- Annex H: Base Price List for Invoiced Purchase Prices
- Annex I: Form of Interim Note
- Annex J: Form of Replacement Note
- Annex K: Lessee's Certificate of Acceptance

PURCHASE AGREEMENT

Dated as of May 5, 1978

Subject to the following terms and conditions

Berwick Forge & Fabricating
Division of Whittaker Corporation
P. O. Box 188 - West Ninth Street
Berwick, Pa. 18603

(the "Seller") hereby agrees to sell to

Consolidated Rail Corporation
6 Penn Center Plaza
Philadelphia, Pa. 19104

(the "Buyer"), and Buyer hereby agrees to purchase the
following goods ("the Equipment"):

<u>No.</u>	<u>Description</u>	<u>Buyer's Specifications No. and Date</u>
132	60 ft. 100-Ton High Roof Box Cars (Engine Service Cars)	1758-A March 10, 1977 (latest revision)
30	60 ft. 100-Ton High Roof Box Cars (Pool Dock Cars)	

TERMS AND CONDITIONS

1. Manufacture of the Equipment. Seller agrees
to manufacture the Equipment in accordance with Buyer's
Specifications including any revisions thereof ("the Speci-
fications"). The Equipment will conform to all applicable

United States Department of Transportation and Interstate Commerce Commission requirements and all applicable standards recommended by the Association of American Railroads. Unless permitted by the Specifications, Seller warrants it will not incorporate any used material or used parts into the Equipment.

2. Purchase Price. The Purchase Price of the Equipment will be (Engine Service Cars)-\$47,826.20 per unit, for an aggregate Purchase Price of \$6,313,058.40, and (Pool Dock Cars)-\$46,644.20 per unit, for an aggregate Purchase Price of \$1,399,326.00. The foregoing prices are subject to escalation for price increases for materials occurring after February 8, 1978 and for wage or salary increases occurring after June 30, 1978. Following the delivery of the Equipment, or a portion thereof, Seller will invoice Buyer, or Buyer's assignee, for the units delivered. The portion of the Purchase Price attributable to such units will become due and payable within five business days of the receipt of an invoice by Buyer or Buyer's assignee.

If, subsequent to the execution of this Agreement by Seller and prior to the delivery of the first unit of Equipment, Seller agrees to sell the same or comparable equipment to any other buyer at a unit or aggregate price

lower than that quoted above, the Seller will sell the Equipment to Buyer at such reduced price.

3. Delivery. Time is of the essence regarding delivery of the Equipment to the Buyer. Seller will complete delivery by the end of December, 1978 ("delivery completion date"). Delivery will be made to Buyer at Berwick, Pa. Seller will assume transportation costs to that point. Buyer shall be entitled to such remedies as may be available to it in law or otherwise for any delay in delivery beyond the delivery completion date.

Seller shall not be liable for a failure to comply with this delivery schedule directly attributable to causes beyond its control including late design changes or other actions taken by Buyer; acts of God; acts of any government authority; fires, explosions or other catastrophies; and a natural calamity, and the delivery completion date will be extended by a period of time equal to the period of delay attributable to such causes.

4. Inspection. Buyer shall have the right to inspect each unit of Equipment before acceptance. Buyer shall have the opportunity at the time and place of inspection to conduct adequate tests to determine whether each unit of the Equipment conforms to the Specifi-

cations. Buyer shall have the right to reject any unit which does not conform to the Specifications and shall thereafter be relieved of any obligation to purchase such unit unless and until it meets the Specifications. Buyer shall signify its acceptance of any unit or units of Equipment after inspection, or waiver of inspection, by presentation of a Certificate of Acceptance ("the Certificate") with respect to such unit or units to Seller. The Equipment shall not be deemed accepted prior to the presentation of the Certificate. Inspection and presentation of the Certificate by Buyer shall not relieve the Seller of any indemnification and warranty obligations or other undertaking.

5. Title. Seller represents and warrants that it has legal title to and the right to sell, the Equipment, and that upon payment of the Purchase Price Seller shall transfer to Buyer or its assignee good and marketable title to the Equipment, free and clear of all or any claims, liens and encumbrances.

Seller shall execute a Bill of Sale for the Equipment in favor of the Buyer, or the Buyer's assignee, if so requested. Such Bill of Sale shall include the

warranties set forth in the preceding paragraph.

6. Taxes. Buyer shall assume only any federal excise and state and local governmental authority's sales and use taxes imposed on the sale or use of the Equipment, except any such taxes it is contesting in good faith.

7. Markings. Seller shall mark the Equipment as provided in the Specifications. In addition, the Equipment may be marked to show the ownership interest of the Buyer's assignee, if any.

8. Representations and Warranties. Seller warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Section 1 of this Agreement and warrants its Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Buyer and not manufactured by the Seller) and workmanship and design (except as to designs specified by the Buyer and not developed by the Seller) under normal use and service, the Seller's obligation under this Warranty being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit of Equipment to the Buyer, be returned to the Seller with transportation charges prepaid and which examination by the Seller shall disclose to

its satisfaction to have been thus defective. In no event shall the Seller be liable to anyone for any incidental, special or consequential damages of any kind.

THE FOREGOING WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND THE SELLER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT.

9. Patents. (a) Except in cases of articles or materials specified by the Buyer and not manufactured by Seller and in cases of designs, systems, processes, formulae or combinations specified by the Buyer and not developed or purported to be developed by Seller, Seller agrees to indemnify, protect and hold harmless the Buyer from and against any and all liability, claims, costs, charges and expenses, including royalty payments and reasonable counsel fees, in any manner imposed upon or accruing against the Buyer, its assigns or the users of the Equipment (i) because of the use in or about the construction or operation of any

of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right or (ii) arising out of any accident or tort during the construction, possession or storage by such Seller of any unit of Equipment resulting in damage to property or injury or death to any person. The Buyer likewise will indemnify, protect and hold harmless the Seller from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Seller because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Buyer and not manufactured by Seller or of any design, system, process, formula or combination specified by the Buyer and not developed or purported to be developed by Seller which infringes or is claimed to infringe on any patent or other right. Seller agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Buyer every claim, right and cause of action which such Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations,

articles or materials specified by the Buyer and purchased or otherwise acquired by Seller for use in or about the construction or operation of any of the Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. Seller further agrees to execute and deliver to the Buyer or the users of the Equipment all and every such further assurance as may be reasonably requested by the Buyer more fully to effectuate the assignment and delivery of every such claim, right and cause of action. Seller will give notice to the Buyer of any claim known to Seller from which liability may be charged against the Buyer hereunder, and the Buyer will give notice to the Seller of any claim known to the Buyer from which liability may be charged against such Seller hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

(b) The Buyer hereby agrees to indemnify the Seller for the amount per unit of Equipment, not in excess of \$100 per such unit, which the Seller may agree to pay to Pullman Incorporated as a royalty or licensing fee for the employment of the construction claimed in U. S. Patent

No. 3,885,506 in or about the Equipment. Seller agrees to use all reasonable efforts to resist the payment of any such royalty or licensing fee, it being understood that "all reasonable efforts" does not necessarily mean defending, or bringing, an action with respect to such patent.

10. Assignment. Buyer may assign its rights and obligation under this Agreement to any person or entity for the purpose of financing the acquisition of the Equipment in any manner it deems appropriate, including but not limited to, a conditional sale, equipment trust or lease financing. Seller shall not unreasonably withhold its consent to any such assignment and agrees upon receipt of the Purchase Price, to execute any documents necessary to relinquish any security interest it may have retained in the Equipment or any units thereof to such assignee, and to execute such other documents in a form satisfactory to Seller, as may be necessary to assist Buyer in obtaining such financing.

11. Nondiscrimination. The clauses attached hereto as an Appendix are incorporated herein by reference and form a part hereof. Seller is referred to in said clauses as Contractor. Seller 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 (42 Federal Register 4286, January 24, 1977).

12. Accidents and Indemnity. If it becomes necessary for Seller's employee's, representative or agents to enter upon the premises or property of Buyer in connection with the manufacture, inspection or delivery of the Equipment, Seller shall take all necessary and proper precaution against the occurrence of any accident or injury to any such person or property during the presence of such individuals on Buyer's premises or property and shall be responsible for, and shall indemnify and save harmless Buyer from, the payment of all sums of money by reason of or any accident or injury that may happen in connection with the presence of such individuals and is attributable to their fault or negligence.

13. Clayton Act. Seller represents that none of its directors (or if a partnership, its partners), managers or purchasing or selling officers is a director, president, manager, or purchasing officer or agent of Buyer or has a substantial interest in Buyer.

14. Governing Law. This Agreement shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania.

15. Counterparts. This Agreement may be executed in any number of counterparts but the counterpart delivered to Buyer shall be deemed the original and all other counterparts shall be deemed duplicates thereof.

16. Entire Agreement. This Agreement sets forth the entire agreement between the parties with respect

to the purchase of the Equipment. No change shall be permitted thereto except as appears in writing executed by the duly authorized representative of both parties.

17. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors or assigns of the Seller and the Buyer. However, unless otherwise provided herein, Seller shall make no assignment of its rights and obligations hereunder without the prior written consent of the Buyer.

18. Authorization. Both Seller and Buyer represent each to the other that they have full power and authority to enter into this Agreement and that the individuals signing below on behalf of each has been duly authorized and empowered to execute this Agreement.

19. Execution. Although for convenience this Agreement is dated as of the date first set forth above, the actual dates of execution by Seller and Buyer are set forth below.

IN WITNESS WHEREOF, Seller and Buyer, intending to be legally bound hereby, have hereunto set their signatures on the date or respective dates set forth below.

SELLER

By

Title

Date

James P. [Signature]
President
14 August '78

CONSOLIDATED RAIL CORPORATION

By

Title

Date

[Signature]
Vice President
Materials and Purchasing
[Date]

RESTATED AND AMENDED TRUST AGREEMENT

CONRAIL 1978 TRUST NO. II

Restated and Amended as of February 15, 1978 and

Dated as of January 2, 1978.

among

MANUFACTURERS NATIONAL BANK OF DETROIT,
as Trustee

FORD MOTOR CREDIT COMPANY,
as Beneficiary

THE BUDD LEASING CORP.,
as Beneficiary

and

GOULD LEASING INC.,
as Beneficiary

RESTATED AND AMENDED TRUST AGREEMENT

CONRAIL 1978 TRUST NO. II

RESTATED AND AMENDED TRUST AGREEMENT, restated and amended as of February 15, 1978 and dated as of January 2, 1978, among FORD MOTOR CREDIT COMPANY, a Delaware corporation, THE BUDD LEASING CORP., a Delaware corporation, GOULD LEASING INC., a Delaware corporation (hereinafter referred to as the "Beneficiaries") and MANUFACTURERS NATIONAL BANK OF DETROIT, a national banking association (hereinafter referred to as the "Trustee"):

ARTICLE I

Definitions

For all purposes of this Trust Agreement, unless otherwise expressly provided or unless the context otherwise requires, the following terms as used herein shall have the following meanings:

(a) "Agent" shall mean a bank or other financial institution acting on behalf of the Lenders.

(b) "Assignment" shall mean the Assignment of Purchase Order, dated as of January 2, 1978, constituting an assignment of the interest of the Lessee in the Purchase Order to the Trustee.

(c) "Authorized Agreements" shall mean the Participation Agreement, the Lease, the Revolving Loan Agreement, the Assignment, the Lease Assignment, and such other agreements or documents authorized by the Beneficiaries for the Trustee to execute and deliver or accept pursuant to Section 2.01 hereof.

(d) "Builder" shall mean Whittaker Corporation (Berwick Forge and Fabricating Division), the manufacturer of the box cars, as described in Schedule A to the Lease, as such schedule may be amended from time to time.

(e) "Builder's Consent" shall mean the Consent to Assignment of Purchase Order, dated as of January 2, 1978,

constituting a consent by the Builder to the assignment of the Lessee's interest in the Purchase Order to the Trustee, and to the assignment by the Trustee of its interest in the Purchase Order pursuant to the Lease Assignment.

(f) "Closing Date" or "Closing Dates" shall mean the tenth of each calendar month for deliveries of the Units through the end of the previous calendar month, as such date or dates are further described in the Participation Agreement.

(g) "Cost of the Equipment" shall mean the aggregate of: (i) all amounts paid for the Equipment pursuant to the Invoices (as defined in the Participation Agreement); and (ii) the Transaction Costs; but the aggregate shall not exceed \$8,413,000.

(h) "Equipment" shall mean the units of equipment, consisting of 162 box cars, described in Schedule A to the Lease, as such schedule may be amended from time to time.

(i) "Equity Investment" shall mean the sums contributed by the Beneficiaries for the purchase of the Equipment pursuant to the Participation Agreement, constituting 35% of the aggregate Cost of the Equipment.

(j) "Event of Default" shall have the meaning accorded to it in the Lease.

(k) "Invoiced Purchase Price" shall mean the invoiced price for the Equipment as such price is described in Paragraph 1 of the Participation Agreement.

(l) "Lease" shall mean the Lease of Railroad Equipment dated as of January 2, 1978, executed by the Trustee, not in its individual capacity but as Trustee hereunder, as lessor, and the Lessee, pursuant to which the Equipment is leased to the Lessee, as such Lease may from time to time be supplemented or amended, or the terms thereof waived or modified, to the extent permitted by and in accordance with the terms hereof and thereof and of the Participation Agreement and the Revolving Loan Agreement.

(m) "Lease Assignment" shall mean the Assignment and Security Agreement, dated as of January 2, 1978, constituting an assignment to the Lenders of the Trustee's interest in the Lease and Purchase Order and the creation of a security interest in the Equipment.

(n) "Lenders" shall mean First Pennsylvania Bank N.A., Central National Bank of Cleveland and The Fidelity Bank.

(o) "Lessee" shall mean Consolidated Rail Corporation, a corporation organized and existing:

(A) pursuant to the provisions of the Regional Rail Reorganization Act of 1973, 45 U.S.C.A. § 701, et seq.; and

(B) under the laws of the Commonwealth of Pennsylvania, with its principal offices and its chief place of business at Six Penn Center Plaza, Philadelphia, Pennsylvania 19104.

(p) "Loan" shall mean the Trust's indebtedness to the Lenders pursuant to the Revolving Loan Agreement.

(q) "Participation Agreement" shall mean the Participation Agreement dated as of January 2, 1978 among the Lessee, the Lenders, the Beneficiaries, the Trustee and the Lenders.

(r) "Person" shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or governmental authority.

(s) "Purchase Order" shall mean the contractual arrangements of the Lessee with the Builder relating to the purchase of the Equipment.

(t) "Rentals" shall have the meaning accorded to it in Section 3 of the Lease.

(u) "Revolving Loan Agreement" shall mean the Revolving Loan Agreement, dated as of January 2, 1978, between the Trust, as borrower, First Pennsylvania Bank N.A. as Agent and Lender, and National City Bank of Cleveland and The Fidelity Bank as Lenders.

(v) "Tax Indemnity Agreement" shall mean the Tax Indemnity Agreement dated as of January 2, 1978 among the Beneficiaries and the Lessee.

(w) "Transaction" shall mean all of the arrangements under the Participation Agreement for the purpose of which this Trust is formed and the Equipment is acquired by the Trustee and leased to the Lessee.

(x) "Transaction Costs" shall have the meaning accorded to it in § 1.43 of the Revolving Loan Agreement.

(y) "Transferee" shall mean the subsequent holder of all of the interest of any of the Beneficiaries hereunder as the result of a transfer made pursuant to Article VII hereof.

(z) "Trust" shall mean the trust created by this Trust Agreement and the name thereof shall be CONRAIL 1978 Trust No. II.

(aa) "Trust Agreement" shall mean this instrument, as presently restated and amended and as the same may from time to time be supplemented or amended, or the terms hereof waived or modified, to the extent permitted by and in accordance with the terms hereof.

(bb) "Trust Estate" shall mean all the property, title, estate, interest, rights, powers and claims of the Trustee in and to, or received or receivable by virtue of its interests in and to, the Equipment and any Authorized Agreement and this Trust Agreement, including but not limited to all amounts received or receivable at any time by the Trustee as (i) Rentals and other amounts payable under the Lease, (ii) reimbursements, insurance proceeds, condemnation awards, indemnity, guaranty or other similar payments or claims payable to the Trustee or the Trust Estate (other than as indemnity or as reimbursement or compensation for, or in connection with, acting as Trustee hereunder or any payment or benefit which runs directly to the Beneficiaries by virtue of the provisions of any Authorized Agreement, including without limitation the Tax Indemnity Agreement and §§ 6 and 9 of the Lease), (iii) the Equity Investment from the Beneficiaries, and (iv) proceeds resulting from a sale, lease or other disposition of the Equipment.

(cc) "Trustee's Principal Office" shall mean unless and until another address is designated therefor by the Trustee, the principal trust office of the Trustee at 100 Renaissance Center, 6th Floor, Detroit, Michigan 48243, attention of Corporate Agencies Administration and, as to any successor trustee hereunder, such address as may be designated in writing by such successor trustee to the Beneficiaries.

ARTICLE II

Authority of and Certain Directions to the Trustee; Declaration of Trust

Section 2.01 Execution, Delivery, Performance under and Enforcement of Authorized Agreements and Authorization and Ratification of Certain Actions. The Beneficiaries hereby authorize and direct the Trustee to execute and deliver or accept (as hereinafter provided) the Authorized Agreements, in such form as the Beneficiaries shall approve and as are reasonably acceptable to the Trustee and to exercise the rights and to perform the obligations of the Trustee set forth herein, therein and in such other instruments as are referred to therein, pursuant to the provisions of this Trust Agreement. The Authorized Agreements shall be executed and delivered or accepted on such date or dates as the Beneficiaries shall specify by reasonable notice to the Trustee. The Trustee shall also pay any broker such fees as the Beneficiaries may direct with such funds as the Beneficiaries may furnish or cause to be furnished. In addition, upon the written request of the Beneficiaries, the Trustee shall execute and deliver such other agreements and take such further action, not otherwise specified herein, as may be necessary or advisable in connection with the consummation of the Transaction, to protect the rights and interests of the Beneficiaries and the Trust in the Trust Estate and to convey, pledge, lease or otherwise dispose of all or any portion of the Trust Estate upon termination of the Revolving Loan Agreement and Lease with respect to any of the Equipment. Such other agreements shall be in the form approved by, and such further action shall be approved by, the Beneficiaries and be reasonably acceptable to the Trustee.

Section 2.02 Declaration of Trust. The Trustee declares that it will hold the Trust Estate in trust upon the terms set forth in this Trust Agreement for the use and benefit of the Beneficiaries, subject, however, to the obligations of the Trustee hereunder.

ARTICLE III

Investment of Beneficiaries

Section 3.01. Nature of Beneficial Interest in the Trust. The Beneficiaries have full beneficial interest in the properties constituting the Trust Estate. Subject to the prior payment in full of certain fees and expenses of the Trustee and the Loan and interest thereon and other just claims for which the Trust Estate is liable, the Beneficiaries are entitled to receive the amounts received by the Trustee in respect of the Trust Estate.

Section 3.02. Persons Treated as Owners. The Trustee may deem and treat the Person in whose name an investment in the beneficial ownership of the Trust Estate is recorded on the books of the Trust from time to time as the absolute owner of such investment for all purposes, and the Trustee shall not be affected by any notice to the contrary, provided that the Trustee shall properly record changes in beneficial ownership as to which notice has been received pursuant to Article VII hereof. All distributions made by the Trustee to any such Person shall be valid and, to the extent of the amount so paid, effectual to satisfy and discharge the liability for moneys payable with respect to such investment.

Section 3.03. Payments from Trust Estate Only. All payments to be made by the Trustee pursuant to this Trust Agreement shall be made only from the Trust Estate, and the income and proceeds thereof, and only to the extent that the same shall be sufficient to make such payments in accordance with Article IV hereof. The Beneficiaries agree that they will look solely to the Trust Estate, and the income and proceeds thereof, to the extent available for distribution to the Beneficiaries as herein provided and that the Trustee shall not be personally liable for any amounts payable pursuant to this Trust Agreement, except as set forth in Section 5.03 hereof.

ARTICLE IV

Receipt, Distribution and Application of
Amounts From The Trust Estate

Section 4.01. Application of Investments. On each Closing Date the Trustee shall, subject to the provisions of Paragraphs 2, 8 and 9 of the Participation Agreement, pay (i) to the Builder of the Equipment delivered with respect to that Closing Date pursuant to § 2 of the Lease an amount equal to 35% of such Equipment's Invoiced Purchase Price, and on the Final Closing Date (ii) to the parties entitled thereto an amount equal to 35% of the Transaction Costs then due and owing, which together shall be the Equity Investment.

Section 4.02. Receipt and Distribution. Except for the Equity Investment, all of which shall be paid over to the Builder of the Equipment or to the parties entitled to payment of Transaction Costs, as described in Section 4.01 hereof and except as provided in Section 4.03 hereof, all payments of every kind and nature received by the Trustee with respect to the Trust Estate shall, as promptly as practicable after receipt by the Trustee, be deposited in a bank account maintained for trust funds, and denoted as such, and thereafter distributed in the following order of priority:

First - unless previously paid or deducted, so much of such payment as shall be required to pay any amounts then due and payable to the Lenders pursuant to the Revolving Loan Agreement shall be paid over to the Agent;

Second - the balance shall be distributed to the Beneficiaries, with 54.64% of all such payments to Ford Motor Credit Company, 22.68% of all such payments to The Budd Leasing Corp. and 22.68% of all such payments to Gould Leasing Inc.

Section 4.03. Indemnity Payments. Each payment at any time received by the Trustee from or on behalf of the Lessee pursuant to the Lessee's indemnities contained in §§ 6 and 9 of the Lease shall be paid to the Beneficiaries as their interests shall appear, as shall any payments to the Beneficiaries pursuant to the Tax Indemnity Agreement.

Section 4.04. Source of Payments. All payments to be made by the Trustee under this Trust Agreement shall be made only in accordance with the terms and provisions hereof and (except as otherwise specifically provided herein) only from the Trust Estate and then only to the extent that the Trust Estate contains sufficient funds therefor.

Section 4.05. Manner of Payments. The Trustee will pay in the manner instructed by the Beneficiaries all amounts payable by the Trustee to the Beneficiaries hereunder either (a) by crediting promptly the amount to be distributed to the Beneficiaries to the separate accounts maintained by the Beneficiaries with the Trustee, (b) by mailing promptly a check payable to or upon the order of each Beneficiary to such address as the Beneficiary shall have specified in such instructions or (c) by transferring promptly by wire the amount to be distributed to each Beneficiary. The parties hereto agree that any payments to the Beneficiaries shall be deemed to have been, and to be, made in the State of Michigan.

Section 4.06. No Liability for the Loan. Notwithstanding any provisions of, or implication to the contrary contained in, this Trust Agreement or any other Authorized Agreement, it is expressly understood and agreed that neither the Trustee nor the Beneficiaries shall have any personal liability for the repayment of the Loan.

ARTICLE V

The Trustee

Section 5.01. Delivery of Equipment and Payment Therefor. (a) On or before the First Delivery Date (as defined in Paragraph 1.21 of the Revolving Loan Agreement), the Trustee shall:

(i) execute any Authorized Agreements to the extent necessary to enable the Trustee to purchase the Equipment being delivered by the Builder as of such date;

(ii) execute a certificate in form and substance as required by Paragraph 3.01(A)(13) of the Revolving Loan Agreement;

(iii) upon instructions of the Beneficiaries, accept, inspect and approve such documents, certificates and opinions as required to be received by the Trustee pursuant to Paragraph 8 of the Participation Agreement; and

(iv) accept delivery of the Equipment pursuant to the provisions of the Participation Agreement.

(b) On each subsequent Delivery Date (as defined in the Participation Agreement), the Trustee shall:

(i) execute any Authorized Agreements to the extent necessary to enable the Trustee to purchase the equipment being delivered as of such date;

(ii) upon instructions of the Beneficiaries, accept, inspect and approve such documents, certificates and opinions as required to be received by the Trustee pursuant to Paragraph 9 of the Participation Agreement; and

(iii) accept delivery of the Equipment pursuant to the provisions of the Participation Agreement.

(c) On each Closing Date, the Trustee shall:

(i) execute any Authorized Agreements as are further required to enable the Trustee to purchase the Equipment delivered by the Builder through the end of the previous month;

(ii) upon instructions of the Beneficiaries, accept, inspect and approve such further documents, certificates, waivers and opinions as required to be received by the Trustee pursuant to Paragraphs 8 and 9 of the Participation Agreement; and

(iii) make all payments required to be made pursuant to the Assignment and the invoices presented by the Builder pursuant to the Purchase Order, promptly upon receipt of such invoices from the Builder and to the parties entitled to payment of Transaction Costs.

Section 5.02. Acceptance of Trust and Certain Duties. The Trustee hereby accepts the trusts herein created and agrees as Trustee to perform the same, but only upon the terms of this Trust Agreement. Specifically but without limitation, the Trustee agrees:

(a) to accept the Equity Investment and, upon request, to issue receipts therefor;

(b) to make the payments to or for the account of the Agent and the Builder of the Equipment and to the parties entitled to payment of Transactions Costs as called for in Sections 4.02 and 5.01 hereof and as shall be directed by the Beneficiaries;

(c) to accept title to the Equipment;

(d) to execute, deliver, accept and, as instructed by the Beneficiaries, exercise its rights and perform its obligations under the Authorized Agreements, pursuant to the provisions of this Trust Agreement;

(e) to accept such payments as it may receive or be entitled to receive under any of the aforesaid documents and to disburse the same in accordance with the provisions hereof;

(f) upon receipt of the written request referred to in Section 2.01 hereof, to execute and deliver such other agreements and to take such action not otherwise specified herein; and

(g) to furnish to the Beneficiaries, promptly upon its receipt thereof, copies of all reports, notices, requests, demands, certificates and other instruments furnished to the Trustee by, from or relating to the Lessee, the Loan, the Equipment and the Trust Estate, to the extent the same shall not have previously been furnished or required to be furnished to the Beneficiaries by any other Person.

Section 5.03. Certain Limitations on Liability. The Trustee hereby agrees to receive and promptly disburse all moneys actually received by it constituting a part of the Trust Estate upon the terms set forth in this Trust Agreement and, in so doing, to exercise the same degree of care and skill as is customarily exercised by similar institutions in

the receipt and disbursement of moneys under similar circumstances. The Trustee shall not be answerable or accountable under any circumstances except for its own misconduct or negligence in performing its duties hereunder or for its failure to receive and disburse moneys in accordance with the preceding sentence.

Section 5.04. Limitation of Duties. Except as expressly provided herein or as directed in written instructions furnished by the Beneficiaries pursuant to the provisions hereof, the Trustee shall have no duty:

(a) to see to the payment or discharge of any tax, assessment or other governmental charge or any lien or encumbrance of any kind owing with respect to, assessed or levied against any part of the Trust Estate (except for any such tax, assessment or other governmental charge or lien or encumbrance arising from its own misconduct or negligence in administering the Trust Estate or arising from activities other than in connection with the Transaction, as to all of which the Trustee will, at its own cost and expense, pay or otherwise discharge; provided that, as to such taxes, assessments, charges, liens and encumbrances arising from its activities, the same need not be discharged if and so long as the Trustee is contesting the same diligently by appropriate proceedings and the same does not and will not adversely affect the right, title or interest of the Beneficiaries or the Lenders in and to the Trust Estate, in the opinion of counsel for the Beneficiaries and the Lenders);

(b) to confirm or investigate any financial statements of the Lessee or inquire into failure of the Trustee to receive any thereof;

(c) to inspect the Equipment at any time or determine the performance of any of the obligations of the Lessee with respect thereto;

(d) to manage, control, use, sell, dispose of or otherwise deal with the Trust Estate;

(e) to exercise any right under any Authorized Agreement in the absence of any written instruction from the Beneficiaries to the Trustee; or

(f) to confirm or investigate any policy of insurance, or inquire into the failure to acquire or renew such insurance.

Section 5.05. Trustee Not to Manage Trust Estate. The Trustee agrees that it will not manage, control, use, sell, dispose or otherwise deal with any portion of the Equipment or any other part of the Trust Estate except in accordance with the powers granted to, or the authority conferred upon, it pursuant to this Trust Agreement.

Section 5.06. Representations of Trustee. The Trustee represents and warrants that this Trust Agreement has been duly authorized, executed and delivered by it and, assuming due execution by the Beneficiaries, that the same constitutes a legal, valid and binding obligation of the Trustee enforceable against the Trustee in accordance with its terms. The Trustee makes:

(a) NO WARRANTY, REPRESENTATION OR COVENANT, EITHER EXPRESS OR IMPLIED, AS TO TITLE TO, OR AS TO THE VALUE, DESIGN, CONDITIONS, COMPLIANCE WITH SPECIFICATIONS, OPERATION, MERCHANTABILITY OF, OR AS TO THE QUALITY OF THE EQUIPMENT OR AS TO THE FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE OR ANY PARTICULAR TRADE, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT WHATSOEVER;

(b) (other than the Trustee's representations in Subparagraphs 5(a) and (b), the first clause of Subparagraph 5(c) of the Participation Agreement and in the first sentence of this Section 5.06), no warranty or representation as to (i) the validity, legality or enforceability of any Authorized Agreement or any other agreement, certificate or document referred to herein or involved in the Transaction, or (ii) the correctness of any statement made by any Person contained in any such agreement, certificate or document; and

(c) no other warranty or representation whatsoever relating to the Transaction not expressly set forth in this Trust Agreement.

Section 5.07. No Segregation of Funds. Moneys received by the Trustee need not be segregated in any manner, except to the extent required by law.

Section 5.08. Reliance on Documents. The Trustee may rely in good faith upon, and shall not incur any liability to anyone in acting or refraining from acting in good faith upon, any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper reasonably believed by it to be signed by

the proper party or parties. As to any fact or matter the manner of ascertainment of which is not specifically described herein, the Trustee may for all purposes hereof rely on certificates executed by the Beneficiaries, and such certificates shall constitute full protection to the Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon.

Section 5.09. Reliance on Agents, Experts and Instructions from the Beneficiaries. In the exercise or administration of the trusts and powers under this Trust Agreement or in the performance of any of its duties and obligations hereunder or under any Authorized Agreement, the Trustee may, when reasonably required by the circumstances, act directly or through any agents or attorneys and may, at the reasonable expense of the Trust Estate, consult with counsel, accountants and other skilled persons to be selected with reasonable care and employed by it, and the Trustee shall not be liable for any action taken or not taken in good faith in accordance with the advice thereof. In addition, in instances where the Trustee is unsure of the application of any provision of this Trust Agreement or any Authorized Agreement, or where such provision is ambiguous as to its application or is, or appears to be, in conflict with any other applicable provision, or where this Trust Agreement or any Authorized Agreement permits any determination by the Trustee or is silent or incomplete as to the course of action which the Trustee is required to take with respect to a particular set of facts, the Trustee must seek instructions of the Beneficiaries and shall not be liable to any Person to the extent that it acts or refrains from acting in good faith in accordance with the instructions therefrom.

Section 5.10. Trustee Not Acting in Individual Capacity. In accepting the Trust, the Trustee acts solely as trustee for the Beneficiaries and not in its individual capacity, and all Persons (other than the Beneficiaries and then only to the extent of the other provisions hereof), having any claim against the Trustee by reason of the transactions contemplated hereby shall, except as otherwise provided herein, look only to the Trust Estate for payment or satisfaction thereof.

Section 5.11. Compensation. The Trustee shall be entitled to receive reasonable compensation for its services hereunder; provided, however, that if arrangements with respect to the Trustee's fees and expenses shall be provided

for in a separate agreement between the Trustee, the Beneficiaries, and any Person who assumes responsibility for the payment thereof (if other than the Beneficiaries), then the Trustee agrees to look to such Person for the payment of all of its fees and expenses to the extent such Person has assumed responsibility for the payment thereof.

Section 5.12. Books, Records and Tax Returns. The Trustee shall keep all appropriate books and records relating to the Trust Estate, including the receipt and disbursement of all moneys under this Trust Agreement or any Authorized Agreement. The Trustee shall be responsible for causing to be prepared and filed all federal and state income tax returns, and such state sales and use tax returns as may be requested by the Beneficiaries, of the Trust relating to the Transaction and shall send a copy of each such income tax return to each of the Beneficiaries. Furthermore, the Trustee shall also prepare and file other tax returns insofar as the Beneficiaries may indicate, orally or in writing, as the same are required. The Beneficiaries shall instruct the Trustee on the proper accounting methods to be employed in filling out such tax returns, and, upon request, will furnish the Trustee with all such information as may be reasonably required in connection with the preparation of such tax returns and shall, upon request of the Trustee, execute such returns if required to do so by the applicable taxing authority. Income tax returns for each year shall be prepared on a timely basis by the Trustee and drafts thereof and final copies thereof sent to the Beneficiaries when reasonably requested, orally or in writing, by the Beneficiaries. The Trustee shall not be personally liable for any tax due and payable in connection with this Trust Agreement, any Authorized Agreement or the Transaction except as provided in Section 6.02 hereof.

Section 5.13. Exculpatory Provisions and Survival Thereof. Whether or not expressly therein so provided, any and all exculpatory provisions, immunities, indemnities and limitations and negations of liability contained in this Trust Agreement and inuring to the benefit of the Trustee shall (a) also inure to its benefit in any capacity in which it acts pursuant to the Trust Agreement (e.g. as lessor under the Lease and borrower under the Revolving Loan Agreement) and (b) survive the termination hereof and of any Authorized Agreement.

Section 5.14. Duties After Event of Default. In the event a responsible officer of the Trustee shall have actual knowledge of an Event of Default, the Trustee shall give prompt written notice of such Event of Default to the Beneficiaries unless such Event of Default shall have been remedied before the giving of such notice; provided that, the failure of the Trustee to give such notice shall under no circumstances result in personal liability of the Trustee if such Event of Default related solely to the nonpayment of Rentals, the failure to maintain proper insurance or the failure to provide appropriate financial statements. Thereafter, the Trustee shall take, or refrain from taking, such action with respect to such Event of Default as the Trustee shall be instructed in writing by the Agent, provided that, if instructions with respect thereto are not received from the Agent within 5 days after discovery by or notice to the Agent of such Event of Default, the instructions of the Beneficiaries shall be followed, subject to the terms and conditions of this Trust Agreement. As used in this Section 5.14, the term "responsible officer" shall mean any officer, including without limitation a Trust Administrator, assigned to the Corporate Agencies Administration Division of the Trustee.

Section 5.15. Indemnification and Legal Action. The Trustee shall be under no duty to take or refrain from taking any action under Sections 5.01, 5.02 and 5.14 hereof unless it shall have been indemnified by the Beneficiaries, to the extent not covered by Section 6.01 hereof, in manner and form satisfactory to the Trustee, against any liability, cost or expense (including counsel fees) which may be incurred in connection with such action or inaction. The Trustee shall not be required to take or refrain from taking any action under Sections 5.01, 5.02 and 5.14 or any other provision of this Trust Agreement if the Trustee shall have been advised by counsel that such action or inaction is violative of law or would result in personal liability.

ARTICLE VI

Indemnification

Section 6.01. Indemnification. Subject only to the exclusions set forth in Sections 5.11 and 6.02 hereof, the Beneficiaries hereby severally and not jointly assume liability

in the proportions set forth in § 4.02 Second hereof for, and do hereby agree (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and keep harmless the Trustee, its successors, assigns, legal representatives, agents and servants, from and against any and all liabilities, obligations, losses, damages, taxes, privilege and license fees, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by or asserted at any time against the Trustee (and not paid by the Lessee or otherwise within a reasonable time after payment is demanded) in any way relating to, arising out of or resulting from the administration or ownership of the Trust Estate or the action or inaction of the Trustee hereunder.

Section 6.02. Exclusions From Indemnification.

Notwithstanding anything contained in or inferred from any provision hereof or of any Authorized Agreement, the Beneficiaries shall not be required to indemnify the Trustee for, but rather the Trustee in its individual capacity shall and does hereby assume personal liability for, (a) taxes, fees or other charges on, based on or measured by any amounts paid to the Trustee as compensation for services rendered hereunder in connection with the Transaction and (b) liabilities, obligations, losses, damages, taxes, penalties, claims, actions, suits, costs, expenses and disbursements resulting from or arising out of (i) the representations made by the Trustee in Subparagraphs 5(a) and (b), the first clause of Subparagraph 5(c) of the Participation Agreement and in the first sentence of Section 5.06 hereof proving to be untrue or inaccurate, (ii) the failure of the Trustee to comply with the standards of care provided in provisions of Section 5.03 hereof, (iii) the Trustee's failure to pay any tax, assessment or other governmental charge pursuant to the exception stated in Section 5.04(a) hereof, and (iv) the Trustee's misconduct or negligence in the performance of its duties hereunder.

Section 6.03. Representation of Beneficiaries.

The Beneficiaries, severally but not jointly, represent and warrant that this Trust Agreement has been duly authorized, executed and delivered by each of them and, assuming due execution by the Trustee and the other Beneficiaries, that the same constitutes legal, valid and binding obligations of each of the Beneficiaries enforceable against each of the Beneficiaries in accordance with its terms.

ARTICLE VII

Assignment, Conveyance or Other Disposition of Beneficiaries' Interest; Action by Majority in Interest of Beneficiaries

Section 7.01. Conditions to Assignments, Conveyances or Other Dispositions. No Beneficiary shall assign, convey or otherwise dispose of any of its right, title or interest in and to this Trust Agreement or the Trust Estate without first having obtained the prior written consent to such assignment, conveyance or other disposition from the Agent and the other Beneficiaries. Upon any such assignment, conveyance or transfer, until but not after the Trustee shall have received the agreement of the Transferee as specified below, and without limiting the primary liability of the Transferee, such Beneficiary shall be and remain only secondarily liable to perform its obligations hereunder. In the event of any such assignment, conveyance and transfer, the Transferee shall become a party to the Trust Agreement and will agree to be bound by all the terms of, and will undertake all the obligations of such Beneficiary contained in, this Trust Agreement by written agreement in form and substance satisfactory to the Trustee. No such assignment, conveyance or transfer shall violate any provision of law or regulation or create a relationship which would be in violation thereof. Upon any such disposition by a Beneficiary to a Transferee in compliance with the above provisions, such Transferee shall be deemed a "Beneficiary" for all purposes hereof, and shall be deemed to have made all the payments previously made by its predecessor Beneficiary; and each reference herein to such Beneficiary shall thereafter be deemed a reference to such Transferee. If a Beneficiary shall propose to transfer its interest hereunder, it shall give written notice to the Trustee and the Agent prior to such transfer, specifying the name and address of the proposed Transferee, and enclosing the agreement or agreements referred to in this Section 7.01.

Section 7.02. Action by Majority in Interest of Beneficiaries. For purposes of this Agreement, reference to the consent or request of, or approval, authorization or direction by, the Beneficiaries shall mean the consent or request of, or approval, authorization or direction by, a 100% majority in interest of the Beneficiaries, based on the respective percentage interests set forth in Section 4.02 Second.

ARTICLE VIII

Successor Trustees, Co-Trustees or Separate Trustees

Section 8.01. Resignation, Removal and Appointment.

The Trustee or any successor Trustee may resign without cause at any time and be discharged from the trusts and duties hereby created by giving at least 30 days prior written notice to the Beneficiaries; provided, however, that no such resignation shall become effective until a successor Trustee has been appointed pursuant to the provisions of this Article VIII and shall have accepted such appointment. In addition, the Beneficiaries may at any time remove the Trustee or any successor Trustee without cause by an instrument in writing delivered to such Trustee; such removal shall be effective upon the acceptance of appointment by the successor Trustee under Section 8.02 hereof. Upon the resignation or removal of any Trustee, the Beneficiaries shall appoint, by an instrument in writing, a successor Trustee. If the Beneficiaries shall not have appointed a successor trustee within 30 days after such resignation or removal, the Trustee shall continue as Trustee and may apply to any court of competent jurisdiction to appoint a successor trustee to act until such time, if any, as a successor shall have been appointed by the Beneficiaries as above provided. Any successor trustee so appointed by such court shall immediately and without further act be superseded by any successor trustee appointed by the Beneficiaries within one year from the date of the appointment by such court. If the Trustee resigns or is discharged prior to the end of the term of this Trust Agreement, the Trustee shall refund to the Beneficiaries, or to the party paying such fees, any fees paid to the Trustee allocable to the unexpired period of this Trust Agreement for which such fees were paid.

Any Trustee which shall resign or be removed pursuant to this Section 8.01 shall be entitled to reimbursement in accordance with Section 5.11 hereof, subject to the limitations of this Section 8.01.

A successor trustee hereunder shall be deemed a "Trustee" for all purposes hereof, and each reference herein to the Trustee shall thereafter be deemed to include such successor.

Section 8.02. Acceptance by Successor Trustee.

Any successor trustee shall execute and deliver to its or his predecessor Trustee an instrument accepting such appointment, and thereupon such successor trustee, without further act, shall become vested with all the estates, properties, titles, rights, powers, duties, obligations and trusts of the predecessor Trustee in the trusts hereunder, with like effect as if originally named as a Trustee herein, but nevertheless upon the written request of such successor trustee, such predecessor Trustee shall execute and deliver an instrument or instruments evidencing the transfer to such successor trustee of all of the aforesaid estates, properties, titles, rights, powers, duties, obligations, and trusts. Such predecessor Trustee shall pay over and deliver to the successor trustee the entirety of the Trust Estate then in its possession.

Section 8.03. Conditions of Appointment of Successor. The appointment of any successor trustee shall in all cases be subject to the following conditions:

(a) Any successor trustee, however appointed, shall be a bank or trust company having its principal place of business in the United States, and having a combined capital and surplus of at least \$50,000,000, if there be such an institution willing, able and legally qualified to perform the duties of the Trustee hereunder upon reasonable or customary terms; and

(b) The appointment of any successor trustee shall not violate any provisions of any law or regulation or create a relationship which would be in violation thereof.

Section 8.04. Merger, Consolidation and Transfer of Assets. Any corporation into which the Trustee in its individual capacity may be merged (including the conversion of a national bank to a state bank or vice versa) or with which it may be consolidated, or any corporation resulting from any such merger or consolidation to which the Trustee in its individual capacity shall be a party, or any corporation to which substantially all the assets of the Trustee in its individual capacity may be transferred, shall, subject to the terms of Section 8.03 hereof, be the Trustee under this Trust Agreement without further act.

Section 8.05. Appointment of Co-Trustees or Separate Trustees. If at any time or times it shall be necessary or prudent in order to conform to any law of any jurisdiction in which the Equipment or any portion thereof is

located, or the Trustee being advised by counsel shall determine that it is so necessary or prudent in the interest of the Beneficiaries, the Trustee and the Beneficiaries shall execute and deliver all instruments and agreements necessary or proper to constitute another bank or trust company or one or more persons approved by the Trustee and the Beneficiaries, either to act as co-trustee or co-trustees, jointly with the Trustee, or to act as separate trustee or trustees hereunder (any such co-trustee or separate trustee being herein sometimes referred to as an additional trustee). In the event the Beneficiaries shall not have joined in the execution of such instruments and agreements within ten days after the receipt of a written request from the Trustee to do so, or in case an event of default under any Authorized Agreement shall occur and be continuing, the Trustee may act under the foregoing provisions of this Section 8.05 without the concurrence of the Beneficiaries; and the Beneficiaries hereby appoint the Trustee their agent and attorney-in-fact to act for them under the foregoing provisions of this Section 8.05 in either of such contingencies.

Every additional trustee hereunder shall, to the extent permitted by law, be appointed and act, and the Trustee and its successors shall act, subject to the following provisions and conditions:

(1) all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody, control and management of moneys, Equipment or Authorized Agreements shall be exercised, solely by the institution designated as Trustee in the first paragraph of this Trust Agreement, or its successors as Trustee hereunder;

(2) all rights, powers, duties and obligations conferred or imposed upon the Trustee shall be conferred or imposed upon and exercised or performed by the institution designated as Trustee in the first paragraph of this Trust Agreement or its successor as Trustee, and such additional trustee or trustees jointly, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed by such additional trustee or trustees, as a trustee and not as an agent or instrumentality of the Trustee;

(3) no power given to, or which it is provided hereby may be exercised by, any such additional trustee or trustees, shall be exercised by such additional trustee or trustees except jointly with, or with the consent in writing of, the institution designated as Trustee in this Trust Agreement or its successor as Trustee, anything herein contained to the contrary notwithstanding;

(4) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder; and

(5) at any time the Beneficiaries or the Trustee, by an instrument in writing executed by the Beneficiaries, may remove any such additional trustee. In the event the Beneficiaries shall not have joined in the execution of any such instrument within ten days after the receipt of a written request from the Trustee so to do, the Trustee shall have the power to remove any such additional trustee without the concurrence of the Beneficiaries; and the Beneficiaries hereby appoint the Trustee their agent and attorney-in-fact to act for them in such connection in such contingency.

ARTICLE IX

Supplements and Amendments to This Agreement and Other Documents

Section 9.01. Supplements and Amendments. Subject to the provisions of Section 10.08 hereof, at any time and from time to time upon, and only upon, the written request of the Beneficiaries (a) the Trustee and the Beneficiaries shall execute and deliver an amendment hereto for the purpose of adding provisions to, or changing or eliminating provisions of, this Trust Agreement as specified in such request and (b) the Trustee shall execute and deliver such written amendment or waiver of any Authorized Agreement or new document relating to the Transaction, all as may be specified in such request; provided, however, that such amendment or waiver which has a material adverse effect upon the Lenders shall be effective only upon the written consent thereto of the Agent.

Section 9.02. Rights of Trustee. Prior to executing any document required to be executed by it pursuant to the provisions of Section 9.01 hereof, the Trustee shall be

entitled to receive an opinion of counsel reasonably acceptable to the Trustee to the effect that the execution of such document is authorized hereunder. If in the reasonable opinion of the Trustee and of its counsel any such document adversely affects any of its rights, immunities or indemnities under this Trust Agreement or any Authorized Agreement, the Trustee may in its discretion decline to execute any such document.

Section 9.03. Beneficiaries' Copies of Documents. Promptly after the execution by the Trustee of any document entered into pursuant to Section 9.01 hereof, the Trustee shall mail, by first class mail, postage prepaid, a conformed copy thereof to each of the Beneficiaries.

ARTICLE X

Miscellaneous

Section 10.01. Termination of Trust. This Trust Agreement and the Trust shall terminate and be of no further force or effect on the earlier to occur of (i) twenty-one years less one day after the death of the last to die of the issue, living on the date hereof, of the present members of the Board of Directors of any one of the Beneficiaries or (ii) the date of sale or other final disposition by the Trustee of the Trust Estate or as provided in Section 10.02 hereof.

Section 10.02. Termination if Transferred to Beneficiaries. Irrespective of any other provision of this Trust Agreement, the Beneficiaries, at their sole option, may, at any time, upon delivery of written instructions to such effect to the Trustee, revoke this Trust with respect to all, but not less than all, the Equipment subject to the provisions of the Lease, and thereupon vest in themselves severally title to the Equipment and the moneys or other property, proceeds and rights comprising the Trust Estate. Upon receipt of such instruction, the Trustee shall transfer to the Beneficiaries severally all of the Equipment and the moneys or other property, proceeds and rights comprising the Trust Estate and the trusts created hereby with respect to (a) the Equipment, (b) the Revolving Loan Agreement, (c) the Assignment, (d) the Lease Assignment, and (e) the Lease, and the Trust shall

thereupon terminate. The division of such Equipment, moneys and other property, proceeds and rights shall be in accordance with the respective percentage interests of the Beneficiaries set forth in Section 4.02 Second hereof. If the Equipment cannot be divided into integral units in accordance with such percentage interests, Ford Motor Credit Company shall take title to the unit of Equipment not so divisible and shall promptly pay the other Beneficiaries the value of their interests therein, the value of such unit of Equipment to be determined in the same manner as the determination of its Fair Market Sales Value pursuant to the provisions of § 13 of the Lease. In the event of the transfer of the Equipment, moneys and other property, proceeds and rights comprising the Trust Estate to the Beneficiaries, the Beneficiaries will as their respective interests appear in Section 4.02 Second hereof, to the extent of the Trust Estate and to no greater extent, discharge the obligations of the Trustee hereunder and under the Lease, the Revolving Loan Agreement, the Assignment and the Lease Assignment (as such obligations are limited in said instruments). Nothing contained in this Section 10.02 shall be deemed to impose on the Beneficiaries any liability or obligation in the event that the trusts created hereby are terminated (whether by operation of law or otherwise) other than expressly in accordance with the terms of this Section 10.02.

In the event revocation pursuant to this Section 10.02 shall be directed by the Beneficiaries prior to the full and complete payment and satisfaction of the Trustee's obligations under the Revolving Loan Agreement, the Beneficiaries will (x) notify the Agent of such revocation, (y) be deemed, by the provisions of this sentence, to have expressly assumed all obligations of the Trustee to the Lenders and (z) at the request of the Agent, execute a separate written instrument or instruments in form and substance satisfactory to the Agent, evidencing the Beneficiaries' express assumption of such obligations.

Section 10.03. Legal Title to Trust Estate.
Subject to the provisions of Section 10.02 hereof, no Persons except the Trustee shall have legal title to any part of the Trust Estate. No transfer, by operation of law or otherwise, of any right, title or interest of the Beneficiaries in and to the Trust Estate shall operate to terminate this Trust Agreement or the Trust or effect any dissolution or entitle any successor or transferee of the Beneficiaries to an accounting or to the transfer to it of legal title to any part of the Trust Estate, except as provided in Section 10.02 hereof.

Section 10.04. Validity of Sale. Any sale or other conveyance of the Equipment or any other portion of the Trust Estate by the Trustee made in accordance with the terms of this Trust Agreement shall be binding upon all Persons and shall be effective to transfer or convey all right, title and interest of the Trustee and the Beneficiaries purported to be conveyed thereby. No purchaser or other grantee shall be required to inquire as to the authorization, necessity, expediency or regularity of such sale or conveyance or as to the application of any sale or other proceeds with respect thereto by the Trustee.

Section 10.05. No Liability. Neither the Trustee, the Beneficiaries or the shareholders, officers and directors of the Trustee or of the Beneficiaries shall in any way be liable or responsible or have any obligation as to the validity, effectiveness, enforceability or otherwise of any instrument executed or accepted by the Trustee in furtherance of the purposes of the Trust except such obligations as are expressly set forth herein.

Section 10.06. Notices. Unless otherwise expressly specified or permitted by the terms hereof, all notices and other communications hereunder shall be in writing and shall either be delivered personally or mailed by first class mail, postage prepaid, addressed to the address set forth below the addressee's name on the signature pages hereof. Any of the parties hereto may change the address at which it wishes to receive notices by furnishing to the other parties hereto, at their respective addresses referred to above or as changed as herein provided, at least 10 days' prior written notice of such change of address.

Section 10.07. Severability. Any provision of this Trust Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be 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 10.08. No Oral Modifications. No term or provision of this Trust Agreement may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought, and any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given.

Section 10.09. Benefits of Agreement. All covenants and agreements contained herein shall be binding upon, and shall inure to the benefit of, the Beneficiaries and the Trustee and, to the extent permitted by Articles VII and VIII hereof, their successors and assigns and, in the case of the Trustee, any co-trustees or separate trustees. Any request, notice, direction, consent, waiver or other instrument or action by the Trustee or the Beneficiaries shall bind the successors and assigns thereof.

Section 10.10. Captions. The Article and Section headings used in this Trust Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any Article or Section hereof.

Section 10.11. Applicable Law. This Trust has been accepted by the Trustee and will be administered in the State of Michigan, and this Trust Agreement shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan, including all matters of construction, validity, effect and performance.

Section 10.12. Counterparts. This Trust Agreement may be executed by the parties hereto individually or in any combination of the parties hereto in several separate counterparts, each of which shall be an original and all of which taken together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Trust Agreement to be restated and amended as of February 15, 1978 and to be duly dated as of January 2, 1978.

Beneficiary: FORD MOTOR CREDIT COMPANY

By _____

Address: The American Road
Box 1729
Dearborn, Michigan 48121
Attn: Vice President,
CIR Financing

Beneficiary: THE BUDD LEASING CORP.

By _____

Address: 3155 West Big Beaver Road
Troy, Michigan 48084
Attn: John H. McBrearty,
President

Beneficiary: GOULD LEASING INC.

By _____

Address: 10 Gould Center
Rolling Meadows, Illinois
60008
Attn: Manager of Portfolio
Operations

Trustee: MANUFACTURERS NATIONAL BANK OF
DETROIT

By _____

Address: 100 Renaissance Center,
6th Floor
Detroit, Michigan 48243
Attn: Donald E. Black,
Vice President
and Trust Officer

The opinion of Messrs. Bodman, Longley & Dahling shall be to the effect that:

(A) The Borrower is a trust that has been duly created and is validly existing under the Laws of the State of Michigan;

(B) The Revolving Loan Agreement, the Notes and the Assignment and Security Agreement have been duly authorized, executed and delivered by the Borrower and, assuming due authorization, execution and delivery by each other party thereto (if any), each such instrument is a legal, valid and binding instrument and is enforceable against the Borrower in accordance with its terms;

(C) The Trustee is a national banking association, duly chartered, validly existing, and in good standing under the Laws of the United States applicable to national banking associations; and

(D) The Trust Agreement, the Lease, the Assignment of Purchase Orders and the Participation Agreement have been duly authorized, executed and delivered by the Trustee and, assuming due authorization, execution and delivery by each other party thereto, each such instrument is a legal, valid and binding instrument and is enforceable against the Trustee in accordance with its terms.

The opinion of Ronald Dietrich, Esquire, Vice President - Law for ConRail, or such other counsel for ConRail as shall be acceptable to the Banks, shall be to the effect that:

(A) The Participation Agreement, Purchase Order, Assignment of Purchase Order, Consent to Assignment and Security Agreement and Lease have been duly authorized, executed and delivered by ConRail and, assuming due authorization, execution and delivery by each other party thereto (if any), each such instrument is a legal, valid and binding instrument and is enforceable in accordance with its terms;

(B) Upon payment for each item of Equipment by the Trustee and the Agent Bank, in accordance with the terms and conditions of the Revolving Loan Agreement, the Banks will have a valid, enforceable first lien on and security interest in such unit of Equipment;

(C) Appropriate Uniform Commercial Code filings have been made with respect to the Collateral; the Revolving Loan Agreement, the Lease, the Assignment and Security Agreement, the Consent to Assignment and Security Agreement, the Purchase Order, the Assignment of Purchase Order, and the Consent to Assignment of Purchase Order have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act; and no other filing or recordation is necessary for the perfection of

the lien on and security interest of the Banks in the Collateral in any state of the United States or in the District of Columbia;

(D) No authorization or approval from any governmental or public body or authority of the United States, or, to the knowledge of said counsel, from any of the states thereof or the District of Columbia, is necessary for the due execution, delivery and enforceability of the Participation Agreement, the Revolving Loan Agreement, the Lease, the Purchase Order, the Assignment of Purchase Order, the Consent to Assignment of Purchase Order, the Assignment and Security Agreement or the Consent to Assignment and Security Agreement;

(E) Under the circumstances contemplated by the Revolving Loan Agreement, it is not necessary to register the Revolving Loan Agreement, the Assignment of Purchase Order, the Assignment and Security Agreement or any other document contemplated by the Revolving Loan Agreement under the Securities Act of 1933, as in effect on the date of such opinion, or to qualify the Revolving Loan Agreement, the Assignment of Purchase Order, the Assignment and Security Agreement or any other document contemplated by the Revolving Loan Agreement under the Trust Indenture Act of 1939, as in effect on the date of such opinion;

(F) ConRail is a corporation duly incorporated, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and is duly qualified to do business in, and is in good standing in, all jurisdictions in which the failure to so qualify or be in good standing could impair its ability to perform its business and activities;

(G) Neither the execution and delivery of the Participation Agreement, the Purchase Order, the Assignment of Purchase Order, the Lease, the Consent to Assignment and Security Agreement, the Acceptance Certificates or the Tax Indemnity Agreement, nor the consummation of the transactions contemplated by the Revolving Loan Agreement, nor the fulfillment of, or compliance with, the terms and provisions of any such document, will conflict with, or result in a breach of, any Laws, or any of the terms, conditions or provisions of the charter (as amended) or the by-laws (as amended) of ConRail, or of any bond, debenture, note, mortgage, indenture, agreement or other instrument known to such counsel to which ConRail is now a party or by which it or its property may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or encumbrance of any nature whatsoever on any of the Collateral, except for Permitted Encumbrances;

(H) No mortgage, deed of trust, security interest or other lien of any nature whatsoever which now covers or affects any property or interest therein of ConRail (other than Permitted Encumbrances) now attaches or hereafter will attach to any of the Collateral or in any manner affects or will affect adversely the right, title and interest of the Trustee, the Beneficiaries or the Banks in and to the Collateral;

(I) Neither the Beneficiaries nor the Trustee will, as of any Closing, by virtue of the transactions contemplated by the Revolving Loan Agreement, be required to obtain any authorization or approval from any Person, nor, except with respect to the Equipment, will any of them be subject to regulation by any state of the United States or the Interstate Commerce Commission or any other federal governmental body or authority having jurisdiction over the Equipment; and

(J) There are no actions, suits or proceedings (whether or not purportedly on behalf of ConRail) pending or (to the knowledge of such counsel) threatened against or affecting ConRail, or any property rights of ConRail at law or in equity, or before any commission or other administrative agency, which could materially and adversely affect the condition (financial or otherwise) of ConRail, or its ability to perform its obligations under the Participation Agreement, the Assignment of Purchase Order, the Consent to Assignment

and Security Agreement, the Tax Indemnity Agreement, the Acceptance Certificates or the Lease, except as described in: (1) Exhibit L to the placement memorandum dated November 14, 1977, from ConRail to prospective equity purchasers of the Equipment; and (2) in the memorandum of disclosure dated as of February , 1978, as supplemented by the First Supplement and Second Supplement thereto, dated April 26, 1978, and July 5, 1978, respectively; and ConRail is not (to the knowledge of such counsel) in default with respect to any order or decree of any court or governmental commission, agency or instrumentality.

The opinion of Messrs. Sullivan & Cromwell shall be to the effect that the Trust Agreement and the Participation Agreement have been duly authorized, executed and delivered by each of the Beneficiaries and, assuming due authorization, execution and delivery by each other party thereto, each such instrument is a legal, valid and binding instrument and is enforceable against each of the Beneficiaries in accordance with its terms.

The opinion of counsel for the Builder shall be to the effect that:

(A) The Builder is a corporation, duly organized and existing and in good standing under the Laws of its state of incorporation, and the Builder has the power and authority to own its property and to conduct its business as now owned and conducted;

(B) The Purchase Order and Consent to Assignment of Purchase Order executed and delivered by the Builder, and the bills of sale and Builder's Delivery Certificates to be executed and delivered by the Builder, have been duly authorized by the Builder, and have been duly executed and delivered, or will be duly executed and delivered, as the case may be, by the Builder and, assuming due authorization, execution and delivery by each other party thereto, each such instrument is a legal, valid and binding instrument and is enforceable against the Builder in accordance with its terms; and

(C) Prior to the delivery thereof to ConRail, the Builder had good and marketable title to each unit of Equipment delivered by the Builder, and each such unit has been delivered to ConRail free and clear of all claims, liens, security interests or other encumbrances, excepting only Permitted Encumbrances.

