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9766
RECORDATION NO. ..... Filed 1425
OCT 13 1978 3:20 PM
INTERSTATE COMMERCE COMMISSION

October 13, 1978

Office of the Secretary
Interstate Commerce Commission
12th Street and Constitution Avenue
Washington, D.C. 20423

RE: Lease between Canat Limited and Canadian National Railway Company

Dear Mr. Secretary:

We are attaching herewith an equipment lease agreement between Canat Limited and Canadian National Railway Company for purposes of filing under Section 20c of the Interstate Commerce Act. In addition, we are enclosing a check for fifty dollars, which fee is required for filings under Section 20c of the Act.

Very truly yours,

Peter J. Vaghi

PJV:ekv

Enclosures

William W. Nooter

C Centipart

No. 9766
Date OCT 13 1978
Fee $50.00

ICC Washington, D. C.

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FEE OPERATION BR.

Interstate Commerce Commission
Washington, D.C. 20423

10/13/78

OFFICE OF THE SECRETARY

Peter J. Vaghi
Sidley & Austin
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 10/13/78 at 3:20pm, and assigned recordation number(s) 9766

Sincerely yours,

H.G. Homme, Jr.,
Acting Secretary

Enclosure(s)

SE-30-T
(2/78)

9788
RECORDATION NO. Filed 1425
OCT 13 1978 3 20 PM
INTERSTATE COMMERCE COMMISSION

LEASE OF EQUIPMENT

between

CANAT LIMITED
as Lessor

and

CANADIAN NATIONAL RAILWAY COMPANY
as Lessee

LEASE OF EQUIPMENT dated the 1st day of October, 1978, between Canat Limited, a body corporate having an Office in the City of Wilmington, in the State of Delware, U.S.A., (hereinafter called the Lessor) and Canadian National Railway Company, a body corporate with its Head Office in the City of Montreal, Province of Quebec, Canada (hereinafter called the Lessee).

WHEREAS, the Lessor and the Lessee have entered into an Agreement made the 30th day of October 1974 (hereinafter called the "Master Agreement") providing that all new equipment thereafter acquired by the Lessor shall be delivered to and accepted and is thereby leased by the Lessee upon and subject to the terms and conditions set forth herein; and,

WHEREAS, the Lessor has entered into a Manufacturing Agreement dated the 30th day of June, 1978 (hereinafter called the Manufacturing Agreement) with PACCAR Inc. (International Car Co. Division) (hereinafter called the Manufacturer) and the Lessee, wherein the Manufacturer has agreed to construct, sell and deliver the units of railroad equipment (hereinafter called the Units) described in Schedule I hereto; and

WHEREAS, the Lessee desires to lease from the Lessor the Units at the rentals for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the convenants 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.

Section 1. DELIVERY AND ACCEPTANCE OF UNITS. The Lessor will cause each Unit accepted pursuant to the Manufacturing Agreement to be tendered to the Lessee at such point or points as may be mutually acceptable to the Lessor and the Lessee. Immediately upon such tender, the Lessee will cause its authorized inspectors or representatives to

inspect the same, and if such Unit is found to be in good operating order and repair, to accept delivery of such Unit and to execute and deliver to the Lessor a certificate of acceptance (hereinafter called a Certificate of Acceptance) certifying as to the actual date of acceptance of delivery by the Lessee; whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee under this Lease and shall be subject thereafter to all the terms and conditions of this Lease and such Certificate of Acceptance shall be absolutely binding upon the Lessee.

Section 2. RENTALS. The Lessee agrees to pay to the Lessor, in such coin or currency of the United States of America as, at the time payable, shall be legal tender for the payment of public and private debts, as rental for each Unit subject to this Lease, one interim rental payment on December 1st, 1978 and 30 consecutive semi-annual rental payments payable in arrears on June 1st and December 1st of each year, commencing June 1st, 1979. In respect of each Unit subject to this Lease (a) the interim payment shall be in an amount equal to the daily lease rate therefor set forth in Schedule II multiplied by the Purchase Price as defined in the Manufacturing Agreement (hereinafter referred to as the Purchase Price) of each such Unit subject to this Lease for each day elapsed from and including the date such Unit is settled for under the Manufacturing Agreement to December 1st, 1978, and (b) the 30 semi-annual payments shall each be in an amount equal to the applicable basic lease rate therefor set forth in Schedule II multiplied by the Purchase Price of such Unit subject to this Lease.

All rental and other payments provided for in this Lease to be made to the Lessor shall be made to the Lessor by the deposit of the funds to the account of the Lessor at the branch of such bank or trust company as shall be from time to time specified in writing by the Lesssor.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or

set-off against rent, including but not limited to, abatements, reductions or set-offs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or otherwise or against the Manufacturer; 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 of or destruction of all or any of the Units from whatever cause, 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 unenforceabilty or lack of due authorization of this Lease or lack of right, power or authority of the Lessor to enter into this Lease, the breach by the Lessor of the representations and warranties of the Lessor contained in the second paragraph of Section 8 hereof, or by reason of any failure by the Lessor to perform any of its obligations herein contained, 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. The Lessee shall have a right of action against the Lessor for any such breach of such representations and warranties or any such failure to perform such obligations, but without any right of set-off of such rents and other amounts payable by the Lessee hereunder.

Section 3. TERMS OF LEASE. The term of this Lease as to each Unit shall begin upon acceptance thereof by the Lessee pursuant to Section 1 hereof, and, subject to the provisions of Sections 6, 9 and 17 hereof, shall terminate on the date on which the final semi-annual payment of rent in respect thereof is due hereunder.

Section 4. IDENTIFICATION MARKS. The Lessee will cause each Unit to be kept numbered with its identifying number as set forth in Schedule I hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, in letters not less than an inch in height, the following words: "Canat Limited, 100 West Tenth Street, Wilmington, Delaware - Owner", 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 or reasonably requested by the Lessor in order to protect the interest of the Lessor in and to such Unit and the rights of the Lessor under this Lease. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destoyed. The Lessee will not change or permit the identifying number of any Unit to be changed except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been deposited in all public offices where this Lease will have been filed, recorded or deposited.

Except as above provided the Lessee will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Units to be lettered with the names, initials or other insignia customarily used by the Lessee or any permitted sublessee on railroad equipment used by it of the same or similar type for convenience of identification of their right to use the Units.

Section 5. TAXES. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, provincial or federal United States, Canadian or Mexican taxes (other than any local, state, provincial or federal

United States or Canadian or Mexican income taxes [to the extent that the Lessor receives credit for such Canadian or Mexican taxes against its United States income tax liability] payable by the Lessor in consequence of the receipt of payments provided herein, and other than the aggregate of all franchise taxes measured by net income based on such receipts, 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), assessments or license fees (and any charges, fines or penalties of any kind in connection therewith) (hereinafter called "impositions") hereafter levied or imposed upon or in connection with or measured by this Lease, or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its interest therein and will keep at all times all and every part of such Unit free and clear of all such impositions which might in any way affect the interests of the Lessor or results in a claim, lien, security interest or other encumbrance upon any such Unit and will supply the Lessor with a receipt or other evidence of such payment satisfactory to the Lessor; provided, however, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor hereunder and the Lessee shall have furnished the Lessor with an opinion of counsel to such effect. If any such impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor, provided, however, that the Lessee shall not be obliged to reimburse the Lessor for any such imposition so paid unless

(a) prior to such payment, the Lessor shall have obtained the opinion of its counsel that the Lessor was liable to pay such imposition or (b) unless the Lessee shall have approved the payment thereof.

In the event any reports with respect to impositions are required to be made on the basis of individual Units the Lessee will either make such reports in such manner as to show the interests of the Lessor in such Units, if such is necessary or appropriate, or will notify the Lessor of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any impositions, pursuant to this Section 5, such liability shall continue, notwithstanding the termination of this Lease, until all such impositions are paid or reimbursed by the Lessee.

Section 6. PAYMENT FOR CASUALTY OCCURRENCES. In the event that any Unit shall be or become worn out, lost, stolen, destroyed or damaged beyond economic repair, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (any such occurrence being hereinafter called a Casualty Occurrence) during the term of this Lease or until such Unit shall have been returned to the Lessor in the manner provided in Section 12 hereof, the Lessee shall, within 30 days after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor with respect thereto. On the rental payment date next succeeding such notice (or, at the option of the Lessee, in the event such rental date shall occur within 15 days after such notice, on the next succeeding rental payment date) or within 60 days if such unit is being returned under Section 12 hereof the Lessee shall pay to the Lessor an amount equal to the Casualty Value (as hereinafter defined), which amount includes the rental for such Unit due and payable on such date, of such Unit as of such rental payment date in accord-

ance with Schedule III hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall thereafter cease to accrue and the terms of this Lease as to such Unit shall terminate. The Lessor shall, upon request of the Lessee, after payment by the Lessee of a sum equal to such Casualty Value of any Unit, execute and deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Unit such as will transfer to the Lessee such title to such Unit as the Lessor derived from the Manufactuer free and clear of all liens, security interests and other encumbrances arising through the Lessor.

The Casualty Value of each Unit for any rental payment date shall be determined by multiplying the Purchase Price of such Unit by the percentage set forth opposite the applicable rental payment date number in Schedule III hereto.

Except as hereinabove in this Section 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

Section 7. ANNUAL REPORTS. On or before April 1 in each year, commencing with the year 1979, the Lessee will furnish to the Lessor, in such number of counterparts or copies as may reasonably be requested an accurate statement signed by an authorized representative, (i) showing, as of the preceding December 31, the amount, description and numbers of all Units that may have suffered a Casualty Occurrence, whether by accident or otherwise, during the preceding calender year (or since the date of this Lease in the case of the first such statement), and such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request, (ii) identifying the Units then subject to this Lease and (iii) stating that, in the case of all Units repaired or repainted during the period covered by such statement, the markings required by

Section 4 hereof have been preserved or replaced. The Lessor shall have the right by its agents, but shall be under no obligation, to inspect the Units and the records of the Lessee with respect thereto at any reasonable time during the continuance of this Lease.

The Lessee shall in each year deliver to the Lessor after the end of the Lessee's fiscal year, in such number of copies as may reasonably be requested, its annual report, including audited financial statements of the Lessee for the fiscal period ended, as soon as it is completed and is available for distribution.

Section 8. DISCLAIMER OF WARRANTIES; Compliance With Laws and Rules; Maintenance; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OR CONDITION OF, OR AS THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, OR AS TO THE SUITABILITY, ADEQUACY, OPERATION, USE OR PERFORMANCE OF, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR 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 and for the account of the Lessor and/or the Lessee as their interests may appear, whatever claims and rights the Lessor may have against the Manufacturer of the Units or of the components thereof. The Lessor shall have no responsibility or liability under this Lease 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 anticipatory profits or consequential damages; or (iv) the delivery of any Units. The Lessee's acceptance of delivery of the Units shall be conculsive evidence as between the Lessee and the Lessor that all Units described in a Certificate of Acceptance are in all the foregoing respects satisfactory to the Lessee and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessor represents and warrants as follows:

(i) At the time of delivery of each Unit under this Lease, the Lessor shall have such title to such Unit as is derived from the Manufacturer unimpaired by any act or omission of the Lessor which will in any manner prevent the performance of this Lease in accordance with its terms and, in addition, such Unit shall be free and clear of all claims, liens, security interests and encumbrances which may result from claims against the Lessor not arising out of the lease or ownership thereof which will prevent the performance of this lease in accordance with its terms; and

(ii) So long as the Lessee shall not be in default under this Lease, the Lessor shall not do (or suffer to be done by any person claiming through or against the Lessor and not against the Lessee or any sublessee) any act which interferes with any and all rights of the Lessee to peaceably and quietly hold, possess and use the Units in accordance with the terms of this Lease.

The Lessor covenants that any sale, assignment, transfer, mortgage or other disposition which it may make of this Lease or of any Unit, whether prior or subsequent to delivery to the Lessee, shall be expressly subject to the terms and provisions of this Lease; provided, however, that the Lessor shall not have the right to terminate or impair the

Lessee's possession or use of the property subject to this Lease so long as the Lessee shall not be in default under this Lease; and, subject to the foregoing, covenants that the Lessor has not done and will not do (or suffer to be done by any person claiming through or against the Lessor) any act which interferes with or impairs (i) the Lessee's possession and use in accordance with the terms of this Lease of the Units or (ii) the title to the Units which may be transferred or conveyed to the Lessee under the provisions of Section 6 and 17 of this Lease and that any title so conveyed shall then be free of any lien, claim, security interest or other encumbrance by or in favor of any person claiming by, through or under the Lessor.

The Lessee agrees, for the benefit of the Lessor, to comply in all respects with all laws of the jurisdiction in which operations involving any Unit subject to this Lease may extend, with the Interchange Rules of the Association of American Railroads, if applicable, and with all lawful rules of any legislative, executive, administrative or judicial body or officer exercising any power or jurisdiction over any such Unit, to the extent such laws and rules affect the operations or use of such Unit; and the Lessee shall and does hereby indemnify the Lessor and agrees to hold the Lessor harmless from and against any and all liability that may arise from any infringement or violation of any such laws or rules by the Lessor or the Lessee, or their employees, or any other person. In the event that such laws or rules require the alteration of the Units or in case any equipment or appliance on any such Unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Unit in order to comply with such laws, regulations, requirements and rules, the Lessee agrees, at its own expense, to make such alterations, changes, additions and replacements and to use, maintain and operate such Unit in full compliance with such laws, regulations, requirements and rules so long as such Unit is subject to this Lease; provided, however, that the Lessee may in good faith contest the

validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor hereunder.

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 order and repair, reasonable wear and tear excepted.

Any and all additions to any Unit and all parts installed on or replacements made to any Unit shall be considered accessions to such Unit (except such as can be removed without damage to and without impairing the originally intended function or use of such Unit and without cost or expense to the Lessor) and there shall be immediately vested in the Lessor the same interest in such accessions, parts or replacements as the interests of the Lessor in such Unit. The Lessee may make alterations or modifications to any Unit so long as they do not affect the value of such Unit adversely.

The Lessee agrees to indemnify and save harmless the Lessor against any charge or claim made against the Lessor and against any expense, loss or liability (including, but not limited to, strict liability in tort, counsel fees and expenses, patent liabilities, penalties and interest, but excluding any liability under Section 14 hereof) which the Lessor may incur in any manner by reason of the ownership of, or which may arise in any manner out of or as the result of the ordering, acquisition, purchase, use, operation, condition, delivery, rejection, storage or return of, any Unit while subject to this Lease or until no longer in the possession of or stored by the Lessee, whichever is later, and to indemnify and save harmless the Lessor against any charge, claim, expense, loss or liability on account of any accident in connection with the operation, use, condition, possession or storage of any Unit resulting in damage to property or injury or death to any person; provided, how-

ever, that the Lessee shall not be required to indemnify the Lessor under this paragraph for negligence on the part of the Lessor; provided, further, however, that the Lessor will not be deemed negligent as a result of any act or omission of the designer or the Manufacturer of the Units or as a result of any act or omission of the Lessee or as a result of the operation, use, possession, storage (except as provided in Section 10 and 12 hereof) or condition of the Units. The indemnities arising under this paragraph shall survive payment of all other obligations under this Lease or the termination of this Lease. Anything herein to the contrary notwithstanding, the Lessee shall not be obligated to indemnify under this paragraph in respect of any charge, claim, expense, loss or liability (except for patent liability) attributable to a Unit which shall have been returned to the Lessor pursuant to Section 10 or 12 hereof or after this Lease with respect to such Unit has otherwise terminated, provided that such charge, claim, expense, loss or liability is attributable to an event occurring after such Unit was so returned or this Lease with respect to such Unit terminated, and provided, further, that such charge, claim, expense, loss or liability does not arise as a result of mechanical defects of such Unit which existed at the time such Unit was so returned or this Lease with respect to such Unit terminated.

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 known by the Lessee to be required to be filed by the Lessor, or requested by the Lessor to be filed, with any federal, state or other regulatory authority by reason of the interest of the Lessor in the Units or the leasing of the Units to the Lessee.

Section 9. DEFAULT. If, during the continuance of this Lease, one or more of the following events (hereinafter sometimes called Events of Default) shall occcur:

A. default shall be made in the payment of any part of the rental provided in Section 2 hereof and such default shall continue for 10 days; or

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

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue (and the Lessee shall not make effective provisions for curing such default) for 30 days after wirtten notice to the Lessee specifying the default and demanding that the same be remedied; or

D. any proceedings shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganization, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder) 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), and all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment,

if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier.

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

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all right of the Lessee to the use of the Units shall absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have the right to recover from the Lessee any and all amounts which under the terms of this Lease may then be 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 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), plus (i) as liquidated damages for loss of the bargain and not as a penalty, a sum with respect to each Unit subject to this Lease which represents the excess of (x) the present value at the time of such termination of the entire unpaid balance of all rentals for such Unit which would

otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the net rentals which the Lessor reasonably estimates to be obtainable for the lease of the Unit during such periods, such present value to be computed in each case on a basis of 5% per annum discount compounded semi- annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; (ii) 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 or covenants of this Lease other than for the payment of rental; and (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or Canada or any political subdivision thereof, in the reasonable opinion of the Lessor, will cause the Lessor's net after tax yield under this Lease to be equal to the net after after tax yield that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the maximum depreciation deduction authorized with respect to a Unit under Section 167 of the Internal Revenue Code of 1954, as amended (hereinafter called the Code) utilizing the lower limit of the "asset depreciation range" of 12 years for the Units prescribed in accordance with Section 167(m) of said Code, for an asset described in Asset Guideline Class No. 00.25 as described in Revenue Procedure 72-10 1972 IRB8 taking into account an estimated Gross Salvage Value of 10% of the Purchase Price of such Unit which will be reduced by 10% of the Purchase Price as provided in Section 167(f) of the Code, (hereinafter called the Depreciation Deduction), which was lost, not claimed, not available for claim, disallowed or

recaptured in respect of a Unit as a result of a breach of one or more of the represention, warranties and covenants made by the Lessee in Section 14 or any other provision of this Lease, the termination of this Lease, the Lessor's loss of the right to use such Unit, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default; and (iv) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or Canada or any political subdivision thereof, shall be equal to any portion of the percentage of the applicable investment credit (hereinafter called the "Investment Credit"), allowed by Section 38 related sections of the Code, which was lost, not claimed, not available for claim, disallowed or recaptured in respect of any Unit, by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in Section 14 hereof or any other provision of the Lease, the termination of the Lease, the Lessor's loss of the right to use such Unit, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default. Notwithstanding anything to the contrary contained in this clause (b), it is understood and agreed that the Lessee shall receive a credit in respect of the amounts payable or paid pursuant to subclause (i) of this clause (b) equal to any net proceeds received by the Lessor upon the sale or the releasing of the Units to the extent that such net proceeds as actually received exceed the amount calculated as provided in said subclause (i)(y). It is further understood and agreed that the Lessee shall pay the Lessor, in addition to the

amounts payable or paid pursuant to subclause (i) of this clause (b), an amount equal to the excess of the amount in subclause (i)(y) over the total net proceeds received by the Lessor upon the sale or releasing of the Units.

Anything in this Section 9 to the contrary notwithstanding, any default in the observance or performance of any covenant, condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance with respect to the Lessor of, all or any portion of the above-mentioned deductions, credits or other benefits, shall be, for all purposes of this Lease, deemed to be cured if the Lessee shall, on or before the next rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance of such deductions, credits or other benefits in respect of such Unit, agree to pay to the Lessor the revised rental rate in respect of such Units determined as provided in the second paragraph of Section 14 of this Lease. Anything in this Section 9 to the contrary notwithstanding, a default in the observance of the covenants contained in subclauses (iii) and (iv) of the last paragraph of Section 14 hereof shall be considered a default for purposes of this Section 9 only if said default shall result in the loss by Lessor of, or the loss by the Lessor of the right to claim, or the disallowance with respect to the Lessor of, or the recapture of, all or any portion of the above-mentioned deductions, credits or other benefits.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or

future claims to offset against the rental payments due hereunder, and agrees to many rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf

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

Section 10. RETURN OF UNITS UPON DEFAULT. If the Lease shall terminate pursuant to Section 9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. 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 place such Units upon such storage tracks of the Lessee as the Lessor may reasonably designate,

B. permit the Lessor to store such Units on such tracks at the risk of the Lessee until the earlier of the date all such Units have been sold, leased or otherwise disposed of by the Lessor and the 270th day from the date the Lessee shall have placed the Units on such storage tracks, and

C. transport the same to any place on the tracks of the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage 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 permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 10, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Unit. In connection therewith the Lessee will supply the Lessor with such documents as the Lessor may reasonably request.

Section 11. ASSIGNMENT; POSSESSION AND USE. This Lease and the rentals and other sums due hereunder 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 shall enure to the Lessor's assigns.

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

the extent that the provisions of any mortgage now or hereafter created on any of the lines of railroad of the Lessee may subject the Lessee's leasehold interest to the lien thereof). In addition, the Lessee, at its own expense, will promptly cause to be duly discharged any lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against the Lessor not related to the ownership of the Units or to the extent that the provisions of any mortgage now or hereafter created on any of the lines of railroad of the Lessee may subject the Lessee's leasehold interest to the lien thereof) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interests of the Lessor, or Lessee therein. 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 pargaraph hereof.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it or by any affiliated or subsidiary corporation upon its or their lines of railroad or upon lines of railroad over which the Lessee or such other corporation has trackage or other operating rights or over which railroad equipment of the Lessee or any such other corporation is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic (if such interchange is customary at the time), but only upon and subject to all the terms and conditions of this Lease.

Nothing in this Section 11 shall be deemed to restrict the right of the Lessee (i) to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of Canada (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have

become amalgamated, merged or consolidated or which shall have acquired the property of the Lessee as an entirety; or (ii) to sublease any Unit to any subsidiary or affiliated corporations of the Lessee; provided, however, that the rights of such sublessee are made expressly subordinate to the rights and remedies of the Lessor under this Lease; provided, further, however, that no such sublease shall relieve the Lessee of any liability or obligation hereunder which shall be and remain that of a principal and not a surety.

The Lessor shall have the right to declare the lease provided for herein terminated in case of any unauthorized assignment or transfer of the Lease.

Section 12. RETURN OF UNITS UPON TERMINATION OF TERM. As soon as practicable on or after the termination of this Lease (other than pursuant to Section 9 hereof) as to any or all of the Units, the Lessee will (unless the Units shall have suffered a Casualty Occurrence), at its own cost and expense, at the request of the Lessor, assemble such Units and deliver possession of such Units to the Lessor upon such storage tracks of the Lessee as the Lessor may reasonably designate and permit the Lessor to store such Unit on such tracks for a period not exceeding six months and transport the same, at any time within such six-month period, to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee; the movement and storage of the Units to be at the expense and risk of the Lessee. 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 of any Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of

inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are 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. If any Unit shall have suffered a Casualty Occurrence, the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof. Each Unit returned to Lessor pursuant to this Section (other than a Unit which has suffered a Casualty Occurrence) shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted and (ii) meet the standards then in effect under the interchange rules of the Association of American Railroads and the United States Federal Railroad Administration if applicable and the Canadian Transport Commission.

Section 13. OPINION OF COUNSEL FOR THE LESSEE. On each Closing Date as defined in the Manufacturing Agreement the Lessee will deliver to the Lessor a written opinion of counsel for the Lessee, in such number of counterparts as may reasonably be requested, and addressed to the Lessor, in scope and substance satisfactory to it and its counsel, to the effect that:

A. the Lessee is a corporation legally incorporated and validly existing in good standing, under the laws of Canada, with full corporate power to enter into this Lease;

B. this Lease has been duly authorized, executed and delivered by the Lessee and constitutes a valid, legal and binding agreement enforceable in accordance with its terms;

C. upon deposit of this Lease in the office of the Registrar General of Canada and, upon pub-

lication of notice of such deposit in The Canada Gazette in accordance with Section 86 of the Railway Act of Canada, no further act, filing, recording or deposit (or giving of notice) is required in order fully to protect in Canada or any Province or Territory thereof the rights of the Lessor under this Lease against any and all subsequent purchasers or mortgagees from the Lessee and/or from creditors of the Lessee;

D. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease or all such approvals have been obtained;

E. the entering into and performance of this Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound or contravene any provision of law, statute, rule of regulation to which the Lessee is subject or any judgment, decree, franchise, order or permit applicable to the Lessee;

F. neither the Lease nor any other document or certificate heretofore furnished by or on behalf of the Lessee in connection with the Lease contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading.

The Lessee also agrees to furnish to the Lessor on each such Closing Date a copy, certified by the Secretary or an Assistant Secretary of the Lessee, of resolutions of the Board of Directors of the Lessee authorizing the Lessee to enter into this Lease. The Lessee further agrees to furnish

to the Lessor on the first Closing Date under the Manufacturing Agreement a certificate as to the economic useful life of the Units in form and substance satisfactory to the Lessor.

The Lessor agrees to furnish to the Lessee signed copies, addressed to the Lessee, of the opinion of its counsel that the Lessor is a Delaware corporation duly organized, validly existing and in good standing, under the laws of the State of Delaware with full corporate power to enter into this Lease and the Manufacturing Agreement, and also the opinion of counsel for the Manufacturer referred to in Article 4.01 of the Manufacturing Agreement.

Section 14. INDEMNITY IN RESPECT OF TAX MATTERS. This Lease and Manufacturing Agreement have been entered into on the basis that the Lessor shall be entitled to such deductions, credits and other benefits as are provided by the United States Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code) to an owner of property including, (without limitation) an allowance for the Depreciation Deduction and the Investment Credit (both as defined in Section 9 of this Lease).

With respect to any Unit, if (other than for the reasons set forth below) the Lessor shall lose or shall not have or shall lose the right to claim, or if (other than for the reasons set forth below) there shall be disallowed or recaptured with respect to the Lessor all or any portion of the Investment Credit or the Depreciation Deduction with respect to a Unit in computing taxable income under one of the accelerated methods of depreciation provided in Section 167(b) of the Code for the period this Lease is in effect, then, after written notice thereof to the Lessee by the Lessor, the rental rate applicable to such Unit set forth in Section 2 of this Lease shall be increased by an amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net after tax return in respect of such Unit under this Lease to equal the net after tax return

that would have been available if the Lessor had been entitled to utilization of all or such portion of the Investment Credit or Depreciation Deduction which was not claimed or was disallowed or recaptured and the Lessee shall forthwith pay to the Lessor as additional rental the amount of any interest or penalty which may be assessed by the United States against the Lessor attributable to the loss of all or any portion of the Investment Credit or Depreciation Deduction, provided, however, that such rental rate shall not be so increased nor shall the Lessee be obliged to the Lessor for such interest or penalty if the Lessor shall have lost, or shall not have or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor all or any portion of the Investment Credit or Depreciation Deduction with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under Section 6 hereof;

(ii) a transfer by the Lessor of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the rentals from such Unit under the Lease unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the failure of the Lessor to claim the Investment Credit or the Depreciation Deduction in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming the Investment Credit or the Depreciation Deduction with respect to such Unit; or

(iv) the failure of the Lessor to have sufficient liability for the tax against which to

credit such Investment Credit or income to benefit from the Depreciation Deduction, as applicable.

The Lessor agrees that if, in the opinion of its or the Lessee's independent tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of the Investment Credit or the Depreciation Deduction on any Unit exists in respect of which the Lessee is required to pay increased rental and interest and/or penalty as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed pursuant to a notice of disallowance or recapture or make such payment and then sue for a refund. In the latter event, if the final determination shall be adverse to the Lessor, the Lessee shall pay to the Lessor interest on the amount of the tax paid attributable to the Investment Credit and/or Depreciation Deduction disallowed, at a rate per annum equal to the prime rate of The Chase Manhattan Bank, National Association in effect on the date of such final determination, from the date of payment of such tax to the date the Lessee shall reimburse the Lessor for such tax in accordance with the provisions of this Section 14. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have agreed in writing to indemnify the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

Notwithstanding any provision herein to the contrary, if any Canadian governmental authority, dominion or provincial, shall withhold or cause to be withheld from any rental payment made under Section 2 of this Lease or any additional rental payment or other payment made under this Section 14 any amounts in respect of taxes (hereinafter called "withholding taxes"), the following provisions will apply:

A. The Lessee will, on the date when such payment is made, pay to the Lessor as additional rental a sum sufficient to cause the Lessor to receive an amount equivalent to the amount the Lessor would have received had no withholding taxes been withheld.

B. The Lessee will pay such withholding taxes and will forthwith furnish to the Lessor all tax receipts obtainable by the Lessee in connection therewith and all information and documents necessary or appropriate to enable the Lessor to substantiate a claim for credit or deduction for U.S. federal or any other income tax purposes with respect thereto.

C. Upon receipt by the Lessor of (i) such tax receipts and other information and documents and (ii) the benefit of any reduction in the federal or any other income tax liability as determined by the Lessor in its sole discretion, resulting from the crediting or deducting of such withholding taxes in the computation of such tax, the Lessor will forthwith reimburse the Lessee an amount so that the Lessor shall be in the same position it would have been if such withholding taxes had not been imposed. It is agreed that such determination may be revised and the Lessee will make an appropriate adjustment with the Lessor after any disallowance of such credit or deduction upon audit by the U.S. Internal Revenue Service. The obligations of the Lessee and Lessor under this subparagraph C will survive the termination of this Lease.

The Lessee's and the Lessor's agreements to pay any sums which may become payable pursuant to this Section 14 shall survive the expiration or other termination of this Lease.

The Lessee represents and warrants that (i) none of the Units constitutes property the construction, reconstruction

or erection of which was begun before April 1, 1971; (ii) at the time the Lessor becomes the owner of the Units, such Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and at the time the Lessor becomes the owner of all Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 48(b) and 167(c) (2) of the Code from commencing with the Lessor and (iii) at all times during the term of this Lease, each Unit will constitute "section 38 property" within the meaning of section 48(a) of the Code and (iv) none of the Units shall be physically located outside the United States more than 50 percent of any taxable year of the Lessor.

Section 15. RECORDING; EXPENSES. Prior to the delivery and acceptance of any Unit, the Lessor will, at its own expense, cause this Lease to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and deposited with the Registrar General of Canada (notice of such deposit to be forthwith thereafter given in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada. The Lessee will, at the Lessor's expense, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will re-file, reregister, rerecord or redeposit whenever required) any and all further instruments required by law and reasonably requested by the Lessor, for the purpose of proper protection, to the satisfaction of the Lessor, of the Lessor's interest in the Units, or for the purpose of carrying out the intention of this Lease. The Lessee will promptly furnish to the Lessor evidence of all such filing, registering, recording, depositing, refiling, reregistering, rerecording and/or redepositing and an opinion or opinions of counsel with respect thereto satisfactory to the Lessor.

The Lessor will pay the reasonable costs and expenses involved in the preparation and printing of this Lease and the fees and disbursements of any counsel which it may retain, unless such costs, expenses, fees and disbursements

are paid by some other person. The Lessee will bear the fees and disbursements of any counsel which it may retain.

Section 16. INTEREST ON OVERDUE RENTALS. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 10% per annum compounded semi-annually of the overdue rentals for the period of time during which they are overdue.

Section 17. PURCHASE AND RENEWAL OPTIONS. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than six months prior to the end of the term of this Lease or any extended term hereof, as the case may be, elect (a) to purchase some or all, the Units covered by this Lease at the end of such term or such extended term of this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of such term or such extended term and/or (b) to extend the term of this Lease in respect of all, but not fewer than all, of such Units then covered by this Lease not purchased pursuant to clause (a), for one additional five-year period commencing on the scheduled expiration of the original term of this Lease, and (c) to extend the extended term of this Lease in respect of all but not fewer than all of such Units then covered by this Lease not purchased pursuant to clause (a) for one additional five-year period commencing on the scheduled expiration of such extended term, provided that no such extended term shall extend beyond ten years from the date of expiration of the original term of this Lease, at a rental equal to the "Fair Rental Value" of such Units, payable in arrears in 10 semi-annual payments for each five-year period; such semi-annual payments to be made on June 1st and December 1st of each year of the applicable extended term.

Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would

obtain in an arm's-length transaction between an informed and willing buyer- user (other than (i) a lessee currently in possession or (ii) a used equipment dealer) 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 value.

Fair Rental Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee- user (other than a lessee-user 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 value.

If, on or before four months prior to the expiration of the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value or the Fair Rental Value of the relevant Units, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fees of the Appraiser shall be borne equally by the Lessor and the Lessee. Upon payment of the purchase price, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without warranties) for such Unit such as will transfer to the Lessee such title to such Unit as the Lessor derived from the Manufacturer free and clear of all liens, security interests and other encumbrances arising through the Lessor.

Section 18. MILEAGE ALLOWANCE; SUBROGATION; FURTHER ASSURANCE. Provided the Lessee is not in default hereunder, the Lessee shall be entitled to (i) all mileage allowances and other moneys payable by reason of the use of the Units, and any such mileage allowances or other moneys received by the Lessor shall be forthwith remitted to the Lessee, and (ii) the proceeds of any claim or right of the Lessor or the Lessee against third persons for injury, damage or loss with respect to any Unit or the use or operation thereof, including settlements pursuant to the rules of the Association of American Railroads, and the Lessee shall be subrogated to the extent of the Lessee's interest to all the Lessor's rights of recovery therefor against any other person, firm or corporation. The Lessor hereby authorizes the Lessee to make settlement of, receive payment and receipt for any and all such claims on behalf of the Lessor, and the Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence the Lessee's authority and/or to vest in the Lessee such proceeds to the extent of the Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which the Lessee is entitled to proceeds or subrogation as aforesaid, the Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of the Lessee to such proceeds or to such subrogation.

The Lessee covenants and agrees from time to time at its expense to do all acts and execute all such instruments of further assurance as it shall be reasonably requested by the Lessor to do or execute for the purpose of fully carrying out and effectuating this Lease and the intent hereof.

Section 19 LAW GOVERNING. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Delaware, provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act of the United States, the applicable recording laws of Canada and of the

Provinces or Territories thereof and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the marking on the Units as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

Section 20. NOTICES. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States or Canadian registered mails, first-class postage prepaid, addressed as follows:

If to the Lessor, 100 West Tenth Street, Wilmington, Newcastle County, Delaware.

If to the Lessee, P.O. Box 8100, Montreal, Quebec, Canada, H3C 3N4 attention of the Treasurer:

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

Section 21. SEVERABILITY. Any provision of this Lease 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.

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

Section 22. NO RECOURSE. 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 Lessor or the Lessee, 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 incorporators, stockholders, directors, officers, as such, being forever released as a condition of and as consideration for the execution of this Lease.

IN WITNESS WHEREOF, the Lessor and the Lessee, each pursuant to due corporate authority, have caused this instrument to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, on the date first above written.

Approved, as to form only
Attorney

Canat Limited

by .....
President

(Corporate Seal)
Attest:

.....
Secretary

APPROVED AS TO FORM
Asst. General Counsel

Canadian National Railway Company

by .....
Vice President

(Corporate Seal)
Attest:

.....
Secretary

Province of Quebec)
) SS
City of Montreal)

On this 5th day of October, 1978, before me personally appeared D.P. MacKinnon to me personally known, whom being by me duly sworn, says that he is President of Canat Limited, that one of the seals affixed to the foregoing instrument is the corporate seal of the said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its By-Laws and he acknowledged that the exectution of the foregoing instrument was the free act and deed of said corporation.

My commission expires

.....
Commissioner for Oaths
R. G. Jenkins,
Commissioner for Oaths
Commissaire à l'Assermentation
District - Montreal
Expires June 6/82

Province of Quebec)
) SS
City of Montreal)

On this 4th day of October, 1978, before me personally appeared J N Spicer to me personally known, who, being by me duly sworn, says that he is a Vice-President of Canadian National Railway Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Commissioner for Oaths

G. ERIC URQUHART
COMMISSIONER FOR OATHS
COMMISSAIRE À L'ASSERMENTATION
DISTRICT - MONTREAL

SCHEDULE I - Lease

Quantity	Type	Identifying Numbers (both inclusive)
35	70-ton 50'6" Box Cars	CNA 404900 through CNA 404934

SCHEDULE II - Lease

	Percentage of Purchase Price of Units
Daily Lease Rate	.029265
Basic Lease Rate for 30 semi-annual payments...	5.2677

SCHEDULE III - Lease

CASUALTY VALUES

Payment Date	Percentage Purchase Price
Interim	105.125
1	105.125
2	105.000
3	104.875
4	104.625
5	104.125
6	103.500
7	99.250
8	98.875
9	97.250
10	95.250
11	87.750
12	84.875
13	81.750
14	78.375
15	69.375
16	65.250
17	60.750
18	56.125
19	52.125
20	49.625
21	46.875
22	44.125
23	41.125
24	38.000
25	34.750
26	31.375
27	27.750
28	24.000
29	20.125
30	15.000

and thereafter the lessor of 15% of the Purchase Price or the Fair Market Value (as defined in Section 17 of the Lease) thereof immediately preceding the Casualty Occurrence.

The casualty values noted above are calculated in accordance with Section 6 of the Lease and include the rental then due and a recovery of principal and interest associated with the Base Rate as determined in Clause 5 of the Master Agreement so as to assure the Lessor's expected after tax yield.