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INTERSTATE COMMERCE COMMISSION

CRAVATH, SWAINE & MOORE

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CABLE ADDRESSES
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CRAVATH, LONDON E.C. 2

August 2, 1979

GAMS Transportation, Inc.
Chicago, Rock Island and Pacific Railroad Company
Lease Financing Dated as of July 20, 1979
9.75% Conditional Sale Indebtedness Due 1994
308 XF Box Cars

Dear Mr. Homme:

Pursuant to 49 U.S.C. § 11303(a) and the Commission's rules and regulations thereunder, I enclose herewith on behalf of GAMS Transportation, Inc., for filing and recordation counterparts of the following documents:

(1) (a) Conditional Sale Agreement dated as of July 20, 1979, between First Security State Bank, as Trustee, and Pullman Incorporated (Pullman Standard Division);

(b) Agreement and Assignment dated as of July 20, 1979, between Pullman Incorporated (Pullman Standard Division) and First Security Bank of Utah, N.A., as Agent;

(2) (a) Lease of Railroad Equipment dated as of July 20, 1979, between GAMS Transportation, Inc. and First Security State Bank, as Trustee;

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Counterpart

(b) Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement dated as of July 20, 1979, between First Security State Bank, as Trustee, and First Security Bank of Utah, N.A., as Agent; and

(3) (a) Sublease of Railroad Equipment dated as of July 20, 1979, between William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company, and GAMS Transportation, Inc.; and

(b) Assignment of Sublease and Agreement dated as of July 20, 1979, between GAMS Transportation, Inc., as Lessee, and First Security State Bank, as Trustee.

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

(1) Assignee-Agent-Vendor:

First Security Bank of Utah, N.A.
79 South Main Street (Suite 310)
Salt Lake City, Utah 84111

(2) Trustee-Owner-Trustee-Lessor:

First Security State Bank
79 South Main Street (Suite 310)
Salt Lake City, Utah 84111

(3) Builder-Vendor:

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

(4) Lessee-Sublessor:

GAMS Transportation, Inc.
In care of Thayer, Ringoen & Macdonald
50 California Street
San Francisco, California 94111

(5) Trustee-Debtor-Railroad-Sublessee:

William M. Gibbons, Trustee of the
Property of Chicago, Rock Island
and Pacific Railroad Company
332 South Michigan Avenue
Chicago, Illinois 60604

(6) Surety:

Great American Insurance Company
580 Walnut Street
Cincinnati, Ohio 45202

Please file and record the documents referred to in this letter and cross-index them under the names of the Assignee-Agent-Vendor, the Trustee-Owner-Trustee-Lessor, the Builder-Vendor, the Lessee-Sublessor, the Trustee-Debtor-Railroad-Sublessee and the Surety.

The equipment covered by the aforementioned documents consists of the following:

208 50'6", 70-ton, class XF boxcars bearing identifying numbers ROCK 302042-ROCK 302249, both inclusive; and

100 50'6", 70-ton, class XF boxcars bearing identifying numbers W&OV 1-W&OV 100, both inclusive.

There is also enclosed a check for $150 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document), the Lease of Railroad Equipment and related Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement (together constituting one document) and the Sublease of Railroad Equipment and related Assignment of Sublease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

Steven M. Berzin
As Agent for
GAMS Transportation, Inc.

H. G. Homme, Esq., Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

RECORDATION NO. 1425 Filed 1425

AUG 7 1979 -3 40 PM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of July 20, 1979

between

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely as Owner-Trustee
for General Electric Credit Corporation

and

PULLMAN INCORPORATED (Pullman Standard Division),

as Builder,

CONDITIONAL SALE AGREEMENT dated as of July 20, 1979, between PULLMAN INCORPORATED (Pullman Standard Division) (hereinafter called the Builder or the Vendor, as the context may require, as more particularly set forth in Article 1 hereof), and FIRST SECURITY STATE BANK, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement), with General Electric Credit Corporation (hereinafter called the Owner).

The Builder agrees to construct, sell and deliver to the Owner-Trustee, and the Owner-Trustee agrees to purchase, the railroad equipment described in Annex B hereto (hereinafter called the Equipment).

The Owner-Trustee is entering into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) with GAMS Transportation, Inc. (hereinafter called Great American or the Lessee), in substantially the form annexed as Annex C hereto.

Great American is entering into a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease) with William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company (hereinafter called the Railroad) in substantially the form annexed to the Lease as Appendix A thereto, and Great American will assign the Sublease to the Owner-Trustee as security for payment and performance of Great American's obligations under the Lease pursuant to an Assignment of Sublease and Agreement dated as of the date hereof (hereinafter called the Sublease Assignment) substantially in the form of Appendix B to the Lease and the Railroad shall consent thereto pursuant to a Consent and Agreement in the form attached thereto (hereinafter called the Sublease Assignment Consent).

To assure payment of certain of the obligations of Great American under the Lease, Great American, as principal, has agreed to deliver to the Owner-Trustee, as obligee, a Surety Bond (hereinafter called the Bond) issued by Great American Insurance Company, as Surety (hereinafter

called the Surety), a form of Assumption and Assignment Agreement (hereinafter called the Assumption Agreement) to be entered into between the Surety (or its substitute permitted under the Bond) and the Owner-Trustee, if the Surety so elects, being attached as an exhibit thereto.

First Security Bank of Utah, N.A. (hereinafter called the Assignee or the Vendor) is acting as agent for an investor or investors (hereinafter called the Investors) pursuant to the Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Owner-Trustee, the Lessee, the Owner, the Railroad and the Investors.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Assignment; Definitions. The parties hereto contemplate that the Owner-Trustee will furnish that portion of the Purchase Price (as defined in Article 4 hereof) for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof (hereinafter called the Assignment) between the Builder and the Assignee, as agent.

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

In case of such assignment, the Owner-Trustee will assign to the Vendor, as security for the payment and perfor-

mance of all the Owner-Trustee's obligations hereunder, all right, title and interest of the Owner-Trustee in and to the Lease, the Sublease, the Bond and, if executed and delivered, the Assumption Agreement, pursuant to an Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement substantially in the form of Annex D hereto (hereinafter called the Lease Assignment) and each of the Lessee, the Railroad and the Surety shall consent thereto pursuant to a Consent and Agreement in substantially the form attached to Annex D hereto (hereinafter collectively called the Consents).

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

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of the Equipment to the Owner-Trustee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Owner-Trustee), freight, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until the filings and recordings referred to in Article 18 hereof have been made; and provided, further, that the Builder shall have no obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clause (e) of Article 15 hereof or the occurrence of any event of default (as described in Article 15 hereof), or any event which with notice or lapse of time or both would con-

stitute such an event of default. The Builder agrees not to deliver any unit of Equipment hereunder (a) following receipt of written notice from the Owner-Trustee or the Assignee of the commencement of any such proceedings or the occurrence of any such event of default or event, as aforesaid, and (b) until it receives notice from the Assignee and the Owner-Trustee, respectively, that the conditions contained in Paragraphs 7 and 8, respectively, of the Participation Agreement have been met.

Notwithstanding the next succeeding paragraph, any Equipment not delivered as a result of the first paragraph of this Article 3, and any Equipment not delivered and accepted hereunder on or prior to December 15, 1979, shall be excluded from this Agreement; and the Owner-Trustee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom.

The Builder's obligation as to the time of delivery set forth in Annex B is subject, however, to delays resulting from causes beyond such Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Owner-Trustee (who may be employees of the Railroad) and the Builder shall grant to such authorized inspectors reasonable access to its plant or plants. The Builder will inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Owner-Trustee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Owner-Trustee (who may be an employee of the

Railroad) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Owner-Trustee and are marked in accordance with Article 9 hereof; provided, however, that the Builder shall not thereby be relieved of its warranties contained or referred to in Article 13 hereof.

Upon delivery of a Certificate of Acceptance with respect to each such unit of Equipment, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranties contained or referred to in Article 13 hereof.

Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the delivery to and acceptance by or on behalf of the Owner-Trustee of any unit of Equipment excluded from this Agreement pursuant to the second paragraph of Article 3 hereof or the first paragraph of Article 4 hereof shall be ineffective, ab initio, to create in or transfer to the Owner-Trustee any legal or beneficial right or interest in such unit or (except as provided in the first paragraph of Article 4 hereof) to impose on the Owner-Trustee any liability, obligation or responsibility with respect thereto.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder, the Owner-Trustee, the Railroad and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in such Builder's invoice or invoices delivered to the Owner-Trustee (which shall include any applicable freight charges) and, if the Purchase Price is other than the base price or prices set forth in Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Railroad, the Lessee and the Owner-Trustee (such invoice or invoices being hereinafter called the Invoices). If on any Closing Date (as hereinafter defined in this Article) the aggregate Purchase Price of Equipment for which

settlement is then being made would exceed the Maximum Purchase Price specified in Item 4 of Annex A hereto, the Builder (and any assignee of the Builder) and the Owner-Trustee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Owner-Trustee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 4 of Annex A hereto and the Owner-Trustee shall take such other steps, including the execution of instruments of transfer, as may be reasonably requested by the Builder for the purpose of acknowledging and perfecting the interest of the Builder in any unit of Equipment so excluded from this Agreement, and the Owner-Trustee shall have no further obligation or liability in respect of units so excluded.

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Owner-Trustee as is provided in Item 2 of Annex A hereto (each such group being hereinafter sometimes called a Group). The term "Closing Date" with respect to any Group shall mean the date (not later than December 31, 1979) occurring not more than 10 business days following presentation by the Builder to the Owner-Trustee of the Invoices, of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Railroad, as shall be fixed by the Railroad by written notice delivered to the Owner-Trustee, Great American, the Builder and the Assignee at least six business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Salt Lake City, Utah, are authorized or obligated to remain closed.

The Owner-Trustee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date an amount equal to 35.5% of the aggregate Purchase Price of such Group; and

(b) in 68 quarterly installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (herein called the Conditional Sale Indebtedness) shall be payable on each January 15, April 15, July 15 and October 15, commencing July 15, 1980, to and including April 15, 1997 (or if any such date is not a business day, on the next succeeding business day; provided, however, that no interest shall be payable on the amount to be paid on such date for the period from and after such nominal date for payment thereof to such next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.75% per annum. Such interest shall be payable, to the extent accrued, on April 15, 1980, and on each Payment Date thereafter. The installments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto, and the aggregate of such installments of principal will completely amortize the remaining Conditional Sale Indebtedness by April 15, 1997. The Owner-Trustee will furnish to the Vendor and the Lessee promptly after the Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months, except that interest payable on April 15, 1980, shall be computed on an actual elapsed day and 360-day year basis.

The Owner-Trustee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 10.75% per annum.

All payments provided for in this Agreement shall be made in immediately available funds in such coin or

currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Articles 7 and 15 hereof, the Owner-Trustee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

The obligation of the Owner-Trustee to make payment to the Builder is subject to the furnishing by the Builder to the Owner-Trustee of the documents required to be furnished by the Builder pursuant to Section 4 of the Assignment in respect of such Group.

Notwithstanding any other provisions of this Agreement, including, without limitation, Articles 15 and 16 hereof, it is understood and agreed by the Vendor that the liability of the Owner-Trustee for all payments to be made by it under and pursuant to this Agreement and for all performance obligations (other than the payments called for by subparagraph (a) of the third paragraph of this Article and as provided in the proviso to the last paragraph of Article 12 hereof), shall not exceed an amount equal to, and shall be payable only out of, the income and proceeds from the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (i) if an event of default shall have occurred under Article 15 hereof and while it shall be continuing so much of the following amounts as are indefeasibly received by the Owner-Trustee (or any assignee of the Owner-Trustee) at any time after any event of default and during the continuance thereof: (a) all amounts of rental and all amounts in respect of Casualty Occurrences payable pursuant to the Lease, the Sublease or any other sublease permitted under the Lease, (b) any and all other payments or proceeds so received pursuant to the Lease, the Sublease or any other sublease permitted under the Lease, or for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (c) any and all payments or proceeds received pursuant to the Bond or the Assumption Agreement and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a), (b) and (c) or otherwise payable to the Owner-Trustee pursuant to the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, as are indefeasibly received by the Owner-Trustee or any assignee of the Owner-Trustee and as shall equal the portion of the Conditional Sale Indebtedness

and/or interest thereon due and payable by the Owner-Trustee on the date such amounts so received were required to be paid pursuant to the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, or as shall equal any other payments (including payments in respect of Casualty Occurrences as defined in Article 7 hereof) then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to by items (i) and (ii) of Paragraph 1 of the Lease Assignment or amounts referred to in the foregoing clauses (a), (b) and (c) which were received by the Owner-Trustee or any assignee of the Owner-Trustee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness and/or interest thereon due and payable by the Owner-Trustee on the date on which amounts with respect thereto received by the Owner-Trustee or any assignee of the Owner-Trustee were required to be paid pursuant to the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, or which exceeded any other payments including payments in respect of Casualty Occurrences due and payable under this Agreement at the time such amounts were payable under the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement. The Vendor agrees that if it obtains a judgment against the Owner-Trustee for an amount in excess of the amounts payable by the Owner-Trustee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount and it will not bring suit against the Owner-Trustee for any sums in addition to the amounts payable by the Owner-Trustee pursuant to said limitations (or obtain a judgment, order or decree against the Owner-Trustee for any relief other than the payment of money) except as may be required by applicable rules of procedure to enforce against the Equipment, the Lessee, the Railroad, any other sublessee (as defined in the Lease), the Surety (including its substitute permitted under the Bond) and the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, rather than against the Owner-Trustee personally, by appropriate proceedings against the Owner-Trustee at law or in equity or otherwise, the obligation to make the payments to be made pursuant to this Agreement or any other payments or performance obligations due to the Vendor under this Agreement. Nothing contained herein limiting the liability of the Owner-Trustee shall derogate from the right of the

Vendor to proceed against the Equipment or the Lessee, the Railroad, any other sublessee permitted under the Lease, the Surety (including its substitute permitted under the Bond), the Lease, the Sublease, any other sublease permitted under the Lease, the Bond, the Assumption Agreement or the Consents for the full unpaid Purchase Price of the Equipment and interest thereon and any and all other payments and obligations under this Agreement.

ARTICLE 5. Security Interest in the Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Owner-Trustee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Owner-Trustee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Owner-Trustee, the Lessee, the Railroad, any other sublessee or the Surety (including its substitute permitted under the Bond) as provided in this Agreement, the Lease, the Sublease, any other sublease permitted under the Lease, the Bond and the Assumption Agreement; it being understood that, subject thereto, ownership of the Equipment (upon delivery and acceptance thereof) shall pass to and remain in the Owner-Trustee. Accordingly, after such time as all payments due or to become due hereunder shall have been completed and fully made to or for the account of the Vendor, and the Owner-Trustee shall have performed all its other obligations hereunder (without regard to the provisions of the last paragraph of Article 4 hereof or Article 21 hereof), (a) such payments shall be deemed to represent the discharge in full of the Vendor's security interest in the Equipment at such time, (b) any moneys remaining in the hands of the Vendor after providing for all outstanding amounts due and payable hereunder and as provided in the first paragraph of Paragraph 10 of the Participation Agreement shall be paid to the Owner-Trustee, and (c) the Vendor shall execute for recording in public offices such instrument or instruments in writing as reasonably shall be requested by the Owner-Trustee or the Lessee in order to discharge of record the security interest of the Vendor in, and to make clear upon public records the Owner-Trustee's full title to, such units of the Equipment under the laws of any jurisdiction; provided, however, that until that time a security interest in the Equipment shall be and remain in the Vendor, notwithstanding the possession and use thereof by the Owner-Trustee, the Lessee, the Railroad, any other sublessee permitted under the Lease or

the Surety (including its substitute permitted under the Bond) pursuant to the terms of this Agreement, the Lease, the Sublease, any other sublease permitted under the Lease, the Bond and the Assumption Agreement.

The Owner-Trustee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instruments or to file such certificates within a reasonable time after written demand by the Owner-Trustee.

The term "Equipment" as used in this Agreement shall not include any special devices or assemblies at any time attached or affixed to any unit of Equipment, the cost or purchase price of which is not included in the Purchase Price of the Equipment and the title to which is in a person other than the Owner-Trustee.

ARTICLE 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Owner-Trustee agrees to pay, or cause to be paid and on written demand to indemnify and hold the Vendor, the Builder, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under this Agreement and the Participation Agreement harmless from, all taxes (income, gross receipts, franchise, sales, use, property [real or personal, tangible or intangible], stamp and minimum [imposed under Section 56 of the Internal Revenue Code of 1954, as amended] taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed on the Owner-Trustee, the Owner, the Vendor, the Investors, the Builder, the Railroad or the Lessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under this Agreement and the Participation Agreement, or otherwise, by any Federal, state or local government or governmental subdivision in the United States of America or by any foreign country or subdivision thereof, upon or with respect to: any unit of the Equipment or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this

Agreement, the Lease, the Sublease, the Consents, the Sublease Assignment, the Sublease Assignment Consent, the Lease Assignment, the Participation Agreement (including the certificates of interest and the issuance thereof), the Trust Agreement, the Bond, the Assumption Agreement or the Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to the Equipment or the property held by the Owner-Trustee under the Trust Agreement or by the Vendor under this Agreement and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States of America or of any state or local government or governmental subdivision or authority thereof and (if and to the extent that any person indemnified hereunder is entitled to a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits, or taxes computed as a percentage of income tax liabilities, of the Vendor, the Builder or the Investors, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Agreement; provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Agreement shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed on or measured by any agency or trustee's fees received by the Vendor; and (iii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Vendor or any transfer or disposition of this Agreement resulting from bankruptcy or other proceedings for the relief of creditors whether voluntary or involuntary in which the Vendor is debtor; provided, however, that the Owner-Trustee shall not be required to pay any Taxes during the period the Owner-Trustee or any indemnified party may be contesting the same in the manner provided in the third paragraph of this Article 6.

The amount which the Owner-Trustee shall be required to pay with respect to any Taxes indemnified against pursuant to this Article 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

If claim is made against any indemnified party for any Taxes indemnified against under this Article 6, such party shall promptly notify the Owner-Trustee and the Lessee. If reasonably requested by the Owner-Trustee in writing, such indemnified party shall, upon receipt of any indemnity satisfactory to it for all costs, expenses, losses, reasonable legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Owner-Trustee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Owner-Trustee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party, which consent cannot be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Owner-Trustee in connection with any such contest or an amount representing interest thereon, such indemnified party shall pay the Owner-Trustee the amount of such refund or interest net of expenses; but only if no event of default set forth in Article 15 hereof and no event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing.

In case any report or return is required to be made with respect to any obligation of the Owner-Trustee under this Article 6 or arising out of this Article 6, the Owner-Trustee shall either make such report or return in such manner as will show the interest of the Vendor in the Equipment or shall promptly notify the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Vendor. All costs and expenses (including reasonable legal and accountants' fees) of preparing any such return or report shall be borne by the Owner-Trustee.

All the obligations of the Owner-Trustee under this Article 6 shall survive and continue, notwithstanding

payment in full of all amounts due under this Agreement, but only with respect to periods included in the term of this Agreement. Payments due from the Owner-Trustee under this Article 6 shall be made directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority.

The obligations of the Owner-Trustee under this Article 6 are subject to the limitations contained in the last paragraph of Article 4 hereof and in Article 21 hereof.

The Owner-Trustee shall furnish or cause to be furnished promptly, upon request, such information and data as are normally available to the Owner-Trustee and which the Vendor reasonably may require to permit compliance with the requirements of any taxing authorities.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Owner-Trustee shall, at its own cost and expense, maintain and keep each unit of the Equipment (including any parts installed on or replacements made to any unit and considered an Addition thereto as provided in § 9 of the Lease) in good operating order, repair and condition, ordinary wear and tear excepted.

In the event that any unit of the Equipment shall be or become worn out, lost, stolen, destroyed, irreparably damaged or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession thereof by the Lessee, the Railroad or any other sublessee permitted under the Lease for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Agreement (any such occurrences being herein called Casualty Occurrences) during the term of this Agreement, the Owner-Trustee shall, promptly after it shall have received notice from the Lessee thereof or otherwise been notified that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the Payment Date next succeeding such notice or notification (or, in the event such Payment Date will occur within 15 days after delivery of such notice or notification to the Owner-Trustee, on the following Payment Date), the Owner-Trustee shall, subject to the limitations contained in the last paragraph of Article 4 hereof, pay to the Vendor an amount equal to the Fair Value, as hereinafter defined, of such unit suffering a Casualty

Occurrence as of the date of such payment. On the date of any such payment, the Owner-Trustee shall file, or cause to be filed, with the Vendor a certificate setting forth the Fair Value of such unit and the method of determination thereof. In the event of the requisition for use by the United States Government of any unit of Equipment, unless such requisition shall at the time of such requisition be scheduled to extend beyond the then remaining term of this Agreement, all the Owner-Trustee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

Upon payment by the Owner-Trustee to the Vendor of the Fair Value of any unit of the Equipment having suffered a Casualty Occurrence, the security interest of the Vendor in such unit shall terminate without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Owner-Trustee, will execute and deliver, to the Owner-Trustee, at the expense of the Owner-Trustee, an appropriate instrument confirming such termination to the Owner-Trustee, in recordable form, in order that the Owner-Trustee may make clear upon the public records the full title of the Owner-Trustee to such unit.

Any insurance proceeds or condemnation payments received and retained by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Owner-Trustee to the Vendor in respect of Casualty Occurrences pursuant to this Article. If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence either after the Owner-Trustee shall have made payments pursuant to this Article without deduction for such insurance proceeds or condemnation payments, or in excess of the Fair Value (after taking into account payments by the Owner-Trustee under this Article) of such units, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Owner-Trustee. All insurance proceeds or condemnation payments or such excess received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Owner-Trustee upon proof satisfactory to the Vendor that the damage to such unit in respect of which such proceeds were paid has been fully repaired.

Any money paid to the Vendor pursuant to this Article shall be applied (after the payment of the interest and

principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each installment, the Conditional Sale Indebtedness and the Owner-Trustee will promptly furnish to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as they may request. In the event of the requisition for use by the United States Government of any unit of the Equipment not constituting a Casualty Occurrence, all the Owner-Trustee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

The "Fair Value" of any unit of Equipment on any date shall be deemed to be an amount computed by multiplying the unpaid principal amount of the Conditional Sale Indebtedness outstanding on such date (after giving effect to any payment in respect thereof due on such date pursuant to Article 4 hereof) by a fraction of which the numerator shall be the Purchase Price of such unit and the denominator shall be the Purchase Price of all units (including such unit) subject to this Agreement on such date.

The Owner-Trustee will at all times prior to the payment of the Conditional Sale Indebtedness, together with interest thereon and all other payments required hereby, maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Equipment at the time subject hereto, 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 Railroad or any other user of the Equipment on similar equipment owned by it. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee, the Lessee, the Railroad or any other sublessee permitted under the Lease as their respective interests may appear.

The Owner-Trustee will at all times prior to the payment of the Conditional Sale Indebtedness, together with interest thereon and all other payments required hereby, at its own expense, carry and maintain or cause to be carried and maintained public liability insurance, naming the Vendor as additional named insured as its interests may appear, 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 Railroad or any other user of the Equipment in respect of similar equipment owned by it.

ARTICLE 8. Reports and Inspections. The Owner-Trustee covenants and agrees to furnish to the Vendor, on or before April 1 in each year, commencing with the calendar year 1980, an accurate statement as of the preceding December 31 (i) showing the amount, description and numbers of all the units of Equipment then subject hereto and the amount, description and numbers of all such units of Equipment that may have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such certificate) or, to the knowledge of the Owner-Trustee, are then undergoing repairs (other than running repairs) or have been withdrawn from use pending repair (other than normal running repairs), and such other information regarding the condition and state of repair of such units of Equipment as the Vendor may reasonably request and (ii) stating that in the case of all such units of Equipment repainted or repaired during the period covered thereby the marks required by Article 9 hereof have been preserved or replaced. The Vendor, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect the records of the Owner-Trustee with respect to the Equipment, and the Owner-Trustee covenants in that event to furnish to the Vendor all reasonable facilities for the making of such inspection.

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

ARTICLE 9. Marking of Equipment. The Owner-Trustee agrees that it will cause each unit of the Equipment to be kept plainly, distinctly, permanently and conspicuously marked on each side of such unit, in letters not less than one inch in height, the following words:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION"

or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the security interest of the Vendor in such unit and the rights of the Vendor under this Agreement.

The Owner-Trustee will not place or permit any unit of the Equipment to be placed in operation or exercise any control or dominion over the same until such words have been so marked on both sides thereof and will replace or cause to be replaced promptly any such words which may be removed, defaced, obliterated or destroyed. The Owner-Trustee shall not change, or permit to be changed, the identifying number of any unit of the Equipment unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and duly filed, recorded and deposited by the Owner-Trustee in all public offices where this Agreement shall have been filed, recorded and deposited and (ii) the Owner-Trustee shall have furnished the Vendor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's interest in such units of Equipment and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor in such Units.

Except as above provided, the Owner-Trustee will not allow the name of any person, association or corporation to be placed on the units of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Owner-Trustee may permit the Equipment to be lettered with the names, trademarks, initials or other insignia customarily used, so long as the Sublease shall remain in effect, by the Railroad, and, thereafter, so long as a sublease with a sublessee of the Equipment permitted by § 12 of the Lease shall remain in effect, by such other sublessee, or their respective affiliates, on railroad equipment used by them of the same or a similar type for convenience of identification of their respective rights to use the Equipment under the Lease, the Sublease or such other sublease.

ARTICLE 10. Compliance with Laws and Rules. During the term of this Agreement, the Owner-Trustee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment 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 Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement, addition or modification of or to any part of any unit of the Equipment, the Owner-Trustee will, or will cause the Lessee to, conform therewith at no expense to the Vendor; provided, however, that the Owner-Trustee or the Lessee may, in good faith, contest or cause to be contested the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Vendor, materially adversely affect the property or rights of the Vendor under this Agreement.

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

ARTICLE 11. Possession of Equipment. So long as no event of default has occurred and is continuing hereunder, the Owner-Trustee shall be entitled to the possession and use of the Equipment and also to enter into the Lease, and to permit the use of the Equipment as provided in the Lease. The Owner-Trustee hereby agrees that the Lease and the Sublease (except with respect to rights specifically excluded from any assignment of rights thereunder) and any other sublease of any of the Equipment and the rights of the Owner-Trustee to receive rentals and other payments due and to become due thereunder shall be subject and subordinate to this Agreement and to the rights of the Vendor hereunder and under the Consents.

The Owner-Trustee will not amend or consent to any change in the Trust Agreement which might adversely affect the rights of the Vendor without the prior written consent of the Vendor.

ARTICLE 12. Discharge of Liens. The Owner-Trustee will pay or discharge any and all sums claimed by any party from, through or under the Owner-Trustee, the Owner or the successors or assigns of any of them which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the "income and proceeds from the Equipment" (as defined in Article 4 hereof), and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings

in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, materially adversely affect the interest of the Vendor in the Equipment, its interest in said income and proceeds from the Equipment, or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

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

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof; provided, however, that the Owner-Trustee will pay or discharge any and all claims, liens, charges or security interests claimed by any party from, through or under the Owner-Trustee or the Owner or the successors or assigns of any of them, not arising out of the transactions contemplated hereby (but including any tax liens arising out of the receipt of rentals and other payments under the Lease, the Sublease or the Participation Agreement), but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not materially adversely affect the security interest of the Vendor in the Equipment, its interest in said income and proceeds from the Equipment, or otherwise under this Agreement.

ARTICLE 13. Indemnity; Builder's Representations and Warranties. The Owner-Trustee shall pay, and shall protect, indemnify and hold the Vendor, the Investors and any respective assignee thereof, and their respective successors, assigns, principals, 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 reasonable attorneys' fees and expenses of any

Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Agreement or the Equipment, 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 of Equipment or portion thereof; (ii) any latent and other defects whether or not discoverable by the Owner-Trustee or any Indemnified Person; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or by statute imposed; (v) any injury to or the death of any person or any damage to or loss of property on or near the Equipment 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 Equipment or of any other equipment in connection with the Equipment (whether owned or under the control of the Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder), or alleged violation, of any provision of this Agreement or any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Equipment or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; or (vii) any claim arising out of the Vendor's holding of a security interest under this Agreement or the Lease Assignment; except, however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant hereunder by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A hereto. The Owner-Trustee shall be obligated under this Article, 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 Owner-Trustee under this Article 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 Owner-Trustee may and, upon such Indemnified Person's reasonable request will, at the Owner-Trustee's expense, resist and defend such action,

suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Owner-Trustee and approved by such Indemnified Person and, in the event of any failure by the Owner-Trustee to do so, the Owner-Trustee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Owner-Trustee is required to make any payment under this Article, the Owner-Trustee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes), shall be equal to the amount of such payment. The Vendor and the Owner-Trustee each agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article by the Owner-Trustee, or the making of provision satisfactory to the Indemnified Person for the full payment thereof, and provided that no event of default set forth in Article 15 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, the Owner-Trustee 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 as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to the Lease or the Railroad pursuant to the Sublease or by any sublessee under a sublease permitted by § 12 of the Lease shall be paid over to the Owner-Trustee to the extent necessary to reimburse the Owner-Trustee for indemnification payments previously made in respect of such matter.

The indemnities contained in this Article shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article shall be deemed to create any rights of subrogation in any insurer or third party against

the Owner-Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

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

The obligations of the Owner-Trustee under this Article 13 are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

The Builder represents and warrants to the Owner-Trustee and the Assignee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Builder 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 created by this Agreement, the Assignment, the Lease and the Sublease and that at such time each such unit will be new railroad equipment the original use of which will commence with the Owner-Trustee.

The Builder represents that it is not entering into this Agreement, or entering into any assignment of this Agreement, 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 is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

The agreement of the parties relating to the Builder's warranty of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Item 3 of Annex A hereto.

ARTICLE 14. Assignments. Without the prior consent of the Vendor, the Owner-Trustee will not (a) transfer the right to possession of any unit of the Equipment, except as provided in Article 11 hereof, or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement except as provided in the Trust Agreement.

All or any of the rights, benefits and advantages

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

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

The Owner-Trustee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Owner-Trustee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense,

setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Owner-Trustee or the Lessee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Owner-Trustee or the Lessee, as the case may be, against and only against the Builder.

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

(a) the Owner-Trustee shall default in the payment of the principal of or interest on the Conditional Sale Indebtedness or payment in respect of a Casualty Occurrence under Article 7 hereof, and such default shall continue until five business days after notice has been received by the Surety, the Owner and the Owner-Trustee of the election to proceed under Paragraph 1(b) of the Bond, without regard to any limitation of liability contained in Article 4 or 21 hereof, or

(b) the Owner-Trustee shall, without regard to any limitation of liability contained in Article 4 or 21 hereof, for more than 30 days (or, with respect to the terms and covenants of Articles 6, 7 (other than the second and third sentences of the second paragraph thereof), 8, 9, 10, 12 (other than the proviso in the last paragraph thereof) and 13, the shorter of (i) 55 days or (ii) 25 days after an Event of Default has occurred under the Lease) after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants of this Agreement or the Lease Assignment on its part to be kept and performed (except as provided in clause (d) of this Article), or to make provision satisfactory to the Vendor for such compliance, or

(c) the Lessee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any term, covenant, agreement or provision of the Participation Agreement made expressly for the benefit of the Assignee (or the Investors), on its part to be kept or performed, and the Owner-Trustee shall not make provision satisfactory to the Assignee for such compliance, or

(d) the Owner-Trustee, except as herein authorized or contemplated, shall make or suffer any unauthorized transfer or sublease (including, for the purpose of this clause, contracts for the use thereof) of any unit of the Equipment and shall fail or refuse either to cause such transfer or sublease to be canceled by agreement of all parties having any interest therein or recover possession of such Equipment, as the case may be, within 30 days after the Vendor shall have demanded in writing such cancelation or recovery of possession, or within said 30 days to deposit with the Vendor a sum in cash equal to the Fair Value (as defined in Article 7 hereof) of such unit of Equipment (any sum so deposited to be returned to the Owner-Trustee upon the cancelation of such transfer or sublease or the recovery of possession by the Owner-Trustee of such Equipment), or

(e) either the Surety or the Owner shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or any of its properties or assets, (ii) be unable, or admit in writing its inability, to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated a bankrupt or insolvent or (v) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or if corporate action shall be taken by it for the purpose of effecting any of the foregoing; or any proceeding shall be commenced against either the Surety or the Owner for any relief 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 hereunder or under the Bond, the Lease, the Lease Assignment or the Participation Agreement of the Surety or the Owner, as the case may be) and such proceedings shall continue unstayed and in effect for any period of 60 days, or

(f) an Event of Default (as defined therein) shall have occurred under the Lease and within five business

days after notice has been received by the Surety of the election to proceed under Paragraph 1(b) of the Bond, neither (i) the event causing such Event of Default shall have been cured nor (ii) the Assumption Agreement shall have been executed and delivered by the Owner-Trustee and the Surety (or its permitted substitute under the Bond); provided, however, that a default in the payment of not in excess of four consecutive basic quarterly rental payments under the Lease will be deemed for purposes of this clause to be an event of default hereunder cured if an event of default shall not then be in existence pursuant to the provisions of clause (a) of this Article 15, or

(g) the Bond shall for any reason no longer be effective and enforceable, or

(h) if the Assumption Agreement shall have been executed and delivered by the Owner-Trustee and the Surety (or its permitted substitute under the Bond), an Event of Default shall have occurred under the Lease, as assumed, or under any lease entered into pursuant to the Assumption Agreement,

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to each Owner, the Owner-Trustee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) cause the Lease and/or the Sublease or any other sublease immediately upon such notice to terminate (and the Owner-Trustee acknowledges the right of the Vendor to terminate the Lease and/or the Sublease or any other sublease), but without affecting the indemnities which by the provisions of the Lease and the Sublease survive its or their termination and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale

Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Owner-Trustee, subject to the provisions of Articles 4 and 21 hereof, wherever situated. The Owner-Trustee shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time would constitute, an event of default under this Agreement.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease, the Sublease or any other sublease by notice to the Owner-Trustee and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease, Sublease and/or other sublease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Owner-Trustee that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

If an event of default shall have occurred and be continuing hereunder for at least 30 days and a Declaration of Default has not been made by the Vendor, the Owner-Trustee may prepay the entire unpaid Conditional Sale Indebtedness together with the interest thereon then accrued and unpaid.

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Owner-Trustee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Owner-Trustee or any other person and for such purpose may enter upon the premises of the Owner-Trustee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or

means of the Owner-Trustee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Owner-Trustee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, causing prompt telegraphic and written notice to be given to all railroads which may have possession of any unit or units of the Equipment to return the unit or units) cause the Equipment to be placed upon such storage tracks as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks without charge for insurance, rent or storage until the Equipment has been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the Equipment to be transported to such interchange point or points as directed by the Vendor upon any sale, lease or other disposal of all or any of the Equipment.

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

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, upon the notice and procedures as are hereinafter set forth,

retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Owner-Trustee, the Owner and the Lessee by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor shall elect to retain the Equipment and the Owner-Trustee and the Owner do not object thereto in writing as described in the second proviso below, all the Owner-Trustee's rights in the Equipment shall thereupon terminate and all payments made by the Owner-Trustee or for its account may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Owner-Trustee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee; provided, further, that if the Owner-Trustee, the Owner, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon 30 days notice to the Owner-Trustee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell or contract to sell the Equipment, or one or more of the units thereof, free from any and all claims of the Owner-Trustee, the Lessee, the Railroad, any other sublessee under the Lease or any other party claiming from, through or under the Owner-Trustee, the Lessee, the Railroad or any other sublessee under the Lease, at law or in equity, at public or private sale and

with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Owner-Trustee should tender full payment of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be conducted in a commercially reasonable manner. The Vendor, the Owner-Trustee and the Owner may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Owner-Trustee and the Lessee shall be given written notice of such sale or the making of a contract for such sale not less than 30 days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Owner-Trustee to purchase or provide a purchaser, within 15 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Owner-Trustee or the Lessee (except to the extent of surplus money received as herein-

after provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor except that the Vendor shall not be deemed to have the power or remedy to retain the Equipment in satisfaction of the Conditional Sale Indebtedness except as specifically provided in this Article 16. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Owner-Trustee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Owner-Trustee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Owner-Trustee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

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

such surplus shall be paid to the Owner-Trustee.

The Owner-Trustee will pay all reasonable compensation and expenses, including reasonable attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable compensation and expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations of the last paragraph of Article 4 and Article 21 hereof.

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

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Owner-Trustee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 18. Recording. Subject to the provisions of Article 21 hereof, the Owner-Trustee will, (a) promptly after the execution and delivery of this Agreement, any assignments hereof, the Lease, the Sublease, the Sublease Assignment, the Lease Assignment and each supplement hereto and thereto, respectively, cause this Agreement, any assignments hereof, the Lease, the Sublease, the Sublease Assignment, the Lease Assignment and each such supplement to be

duly filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303, (b) promptly cause all necessary filings and recordings of appropriate financing statements or continuation statements to be made, and from time to time when required refilings and rerecordings, in accordance with the applicable provisions of the Uniform Commercial Code of the State of Utah (and, if the Owner-Trustee changes its chief place of business to a different state, in any such other state) and in any other State of the United States of America or the District of Columbia where filing is reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its security interest in the Bond, the Lease, the Sublease and the Equipment and its rights under this Agreement and the Lease Assignment or for the purpose of carrying out the intention of this Agreement and the Lease Assignment, (c) from time to time do and perform any other act and execute, acknowledge, deliver and file, register and record any and all further instruments required by law or reasonably requested by the Vendor for the purposes of proper protection of the security interest of the Vendor, (d) furnish an opinion or opinions of counsel of the Lessee in connection with such filing, registration, and recordation, and (e) promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

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

Except for the Participation Agreement, the Assignment, the Bond and the Trust Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Owner-Trustee with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Owner-Trustee.

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

(a) to the Owner-Trustee, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department,

(b) to First Security Bank of Utah, N.A., as the Assignee or as the Vendor, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department,

(c) to the Builder, as the Builder or as the Vendor, at its address specified in Item 1 of Annex A hereto,

(d) to the Owner, at P. O. Box 8300, Stamford, Connecticut 06904, Attention of Manager-Operations, Leasing and Industrial Loans, with a separate copy to Attention of Manager-Rail Component;

(e) to the Railroad, at 332 South Michigan Avenue, Chicago, Illinois 60604, Attention of Chief Financial Officer,

(f) to Great American, care of Thayer, Ringoen & Macdonald, at 50 California Street, San Francisco, California 94111, Attention of President,

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

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

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

The obligations of the Owner-Trustee under the second and eighth paragraphs of Article 16 and under Articles 3, 6, 7, 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Owner-Trustee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed or cured as permitted hereby they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. So long as any Conditional Sale Indebtedness remains outstanding, no waiver or amendment by the Owner-Trustee of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

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 Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by First Security State Bank, or for the purpose or with the intention of binding the 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 Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank or the Owner on account of any representation, undertaking or agreement hereunder of said bank acting in its capacity as Owner-Trustee, or the Owner either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 hereof and sub-paragraph (a) of the third paragraph of Article 4 hereof; all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

ARTICLE 22. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Utah; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, 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.

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

PULLMAN INCORPORATED (Pullman Standard Division),

by E. J. Almquist
VICE PRESIDENT

Attest:

W E Bahn
ASSISTANT SECRETARY

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by

Authorized Officer

Attest:

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

On this 2nd day of August 1979, before me personally appeared E. G. Ahrquist, to me personally known, who, being by me duly sworn, says that he is a Vice President of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and 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.

Janice K Reeves
Notary Public

[Notarial Seal]

My Commission Expires 8-7-79

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and 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.

_____
Notary Public

[Notarial Seal]

My Commission Expires

SCHEDULE I

Allocation Schedule of Conditional Sale Indebtedness

DATE	DEBT SERVICE	DEBT INTEREST	DEBT PRINCIPAL	DEBT BALANCE
4/1980	*	*	0.00	8,125,194.00
7/1980	255,118.49	198,051.60	57,066.89	8,068,127.11
10/1980	255,118.49	196,660.60	58,457.89	8,009,669.22
1/1981	255,118.49	195,235.69	59,882.80	7,949,786.42
4/1981	255,118.49	193,776.04	61,342.45	7,888,443.97
7/1981	255,118.49	192,280.82	62,837.67	7,825,606.30
10/1981	255,118.49	190,749.15	64,369.34	7,761,236.96
1/1982	255,118.49	189,180.15	65,938.34	7,695,298.62
4/1982	255,118.49	187,572.90	67,545.59	7,627,753.03
7/1982	255,118.49	185,926.48	69,192.01	7,558,561.02
10/1982	255,118.49	184,239.92	70,878.57	7,487,682.45
1/1983	255,118.49	182,512.26	72,606.23	7,415,076.22
4/1983	255,118.49	180,742.48	74,376.01	7,340,700.21
7/1983	255,118.49	178,929.57	76,188.92	7,264,511.29
10/1983	255,118.49	177,072.46	78,046.03	7,186,465.26
1/1984	255,118.49	175,170.09	79,948.40	7,106,516.86
4/1984	255,118.49	173,221.35	81,897.14	7,024,619.72
7/1984	255,118.49	171,225.11	83,893.38	6,940,726.34
10/1984	255,118.49	169,180.20	85,938.29	6,854,788.05
1/1985	255,118.49	167,085.46	88,033.03	6,766,755.02
4/1985	255,118.49	164,939.65	90,178.84	6,676,576.18
7/1985	255,118.49	162,741.54	92,376.95	6,584,199.23
10/1985	255,118.49	160,489.86	94,628.63	6,489,570.60
1/1986	255,118.49	158,183.28	96,935.21	6,392,635.39
4/1986	255,118.49	155,820.49	99,298.00	6,293,337.39
7/1986	255,118.49	153,400.10	101,718.39	6,191,619.00
10/1986	255,118.49	150,920.71	104,197.78	6,087,421.22
1/1987	255,118.49	148,380.89	106,737.60	5,980,683.62
4/1987	255,118.49	145,779.16	109,339.33	5,871,344.29
7/1987	255,118.49	143,114.02	112,004.47	5,759,339.82
10/1987	255,118.49	140,383.91	114,734.58	5,644,605.24
1/1988	255,118.49	137,587.25	117,531.24	5,527,074.00
4/1988	255,118.49	134,722.43	120,396.06	5,406,677.94
7/1988	255,118.49	131,787.77	123,330.72	5,283,347.22

* Interest payment to be calculated in accordance with Article 4 of the Conditional Sale Agreement.

DATE	DEBT SERVICE	DEBT INTEREST	DEBT PRINCIPAL	DEBT BALANCE
10/1988	255,118.49	128,781.59	126,336.90	5,157,010.32
1/1989	255,118.49	125,702.13	129,416.36	5,027,593.96
4/1989	255,118.49	122,547.60	132,570.89	4,895,023.07
7/1989	255,118.49	119,316.19	135,802.30	4,759,220.77
10/1989	255,118.49	116,006.01	139,112.48	4,620,108.29
1/1990	255,118.49	112,615.14	142,503.35	4,477,604.94
4/1990	208,284.82	109,141.62	99,143.20	4,378,461.74
7/1990	210,744.70	106,725.00	104,019.70	4,274,442.04
10/1990	210,744.68	104,189.52	106,555.16	4,167,886.88
1/1991	255,118.49	101,592.24	153,526.25	4,014,360.63
4/1991	115,213.79	97,850.04	17,363.75	3,996,996.88
7/1991	185,166.14	97,426.80	87,739.34	3,909,257.54
10/1991	185,166.13	95,288.15	89,877.98	3,819,379.56
1/1992	252,043.39	93,097.38	158,946.01	3,660,433.55
4/1992	89,223.07	89,223.07	0.00	3,660,433.55
7/1992	170,633.23	89,223.07	81,410.16	3,579,023.39
10/1992	170,633.20	87,238.70	83,394.50	3,495,628.89
1/1993	255,118.49	85,205.95	169,912.54	3,325,716.35
4/1993	181,436.26	81,064.34	100,371.92	3,225,344.43
7/1993	245,856.40	78,617.77	167,238.63	3,058,105.80
10/1993	245,856.40	74,541.33	171,315.07	2,886,790.73
1/1994	245,856.40	70,365.52	175,490.88	2,711,299.85
4/1994	245,856.40	66,087.93	179,768.47	2,531,531.38
7/1994	245,856.40	61,706.08	184,150.32	2,347,381.06
10/1994	245,856.40	57,217.41	188,638.99	2,158,742.07
1/1995	245,856.40	52,619.34	193,237.06	1,965,505.01
4/1995	245,856.40	47,909.18	197,947.22	1,767,557.79
7/1995	245,856.40	43,084.22	202,772.18	1,564,785.61
10/1995	245,856.40	38,141.65	207,714.75	1,357,070.86
1/1996	245,856.40	33,078.60	212,777.80	1,144,293.06
4/1996	245,856.40	27,892.14	217,964.26	926,328.90
7/1996	245,856.40	22,579.26	223,277.14	703,051.66
10/1996	245,856.40	17,136.88	228,719.52	474,332.14
1/1997	245,856.40	11,561.85	234,294.55	240,037.59
4/1997	245,888.51	5,850.92	240,037.59	0.00

ANNEX A
to
Conditional Sale Agreement

Item 1: Pullman Incorporated (Pullman Standard Division), at 200 South Michigan Avenue, Chicago, Illinois 60604.

Item 2: The Equipment hereto shall be settled for in not more than one Group.

Item 3: (a) The Builder warrants that the units of the Equipment will be built in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (the "CSA") and warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Railroad and not manufactured by the Builder) and workmanship or design (except as to designs specified by the Railroad and not developed or purported to be developed by the Builder) under normal use and service; the Builder's obligation under this paragraph being limited to making good at its plant any part or parts of any unit of the Equipment which shall be returned to the Builder within one year after delivery of such unit, or as to which written notice of such defect has been given by the Owner-Trustee or the Railroad to the Builder within one year after delivery of such unit and which part or parts are returned within 90 days after such notice to the Builder, provided that the Builder's examination shall disclose to its reasonable satisfaction such part or parts to have been defective; provided, however, that this warranty will be subject to the following limitations: (i) warranty coverage on unit running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever first occurs; and (ii) normal use and service is deemed to require inspection, adjustment, maintenance, and compliance with the Builder's written instructions and any applicable Federal, state or local laws or regulations. THIS WARRANTY

IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE BUILDER, EXCEPT FOR ITS OBLIGATIONS UNDER ARTICLES 2, 3, 4 AND 13 OF THE CSA. The Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of its Equipment, except for the patent indemnification under Item 3(b) below and as aforesaid.

The Builder also agrees to exert its best efforts to include, as a condition of its purchase order with the vendor of a specialty purchased by the Builder for incorporation in the Equipment and not warranted hereunder, an agreement by such vendor to the effect that all warranty agreements and representations, if any, made by such vendor to the Lessee, to the Railroad or to the Builder may be enforced by the Lessee in the Lessee's own name. The Builder hereby agrees to assign to the Lessee, solely for the purpose of making and prosecuting any such claim, all of the rights which the Builder has against such vendor for the breach of warranty or other representation respecting the Equipment.

The Builder further agrees that neither the inspection as provided in Article 3 of the CSA, nor any examination or acceptance of any units of its Equipment as provided in said Article 3, shall be deemed a waiver or modification by the Lessee of any of its rights under this Item 3.

It is further understood and agreed that the word "design(s)" as used herein and in Item 3(b) below and the word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

(b) Except in case of designs, processes or combinations specified by the Railroad and not developed or purported to be developed by the Builder, and articles and materials specified by the Railroad and not manufactured by the Builder, the Builder agrees to indemnify, protect and hold harmless the Lessee, the Railroad, the Owner-Trustee,

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

the Lessee on the basis of which liability may be charged against the Builder hereunder and the Builder will give notice to the Lessee of any claim known to the Builder, as the case may be, on the basis of which liability may be asserted against the Lessee hereunder.

Item 4: The Maximum Purchase Price referred to in Article 4 of the CSA is $12,597,200.

Item 5: The Maximum Conditional Sale Indebtedness referred to in Article 4 of the CSA is $8,125,194.

ANNEX B
to
Conditional Sale Agreement

Type	Builder's Specification	Builder's Plant	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Road Numbers (Inclusive)	Estimated Time of Delivery
50 foot, 6 inch 70 ton, Class XF boxcar	No. 1042, dated March 29, 1979, as amended.	Bessemer, Alabama	308	$40,900	$12,597,200	ROCK 302042 through ROCK 302249 W&OV 1 through W&OV 100	July-August 1979

Place of delivery: Bessemer, Alabama.

Annex C to
Conditional Sale Agreement

LEASE OF RAILROAD EQUIPMENT

Dated as of July 20, 1979

between

GAMS TRANSPORTATION, INC.,

as Lessee

and

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely as Owner-Trustee for
GENERAL ELECTRIC CREDIT CORPORATION,

as Lessor

TABLE OF CONTENTS

		Page
PREAMBLE		L-1
§ 1.	Net Lease	L-2
§ 2.	Delivery and Acceptance of Units	L-3
§ 3.	Rentals	L-4
§ 4.	Term of Lease	L-6
§ 5.	Identification Marks	L-6
§ 6.	Taxes	L-7
§ 7.	Payment for Casualty Occurrences; Insurance	L-11
§ 8.	Reports	L-15
§ 9.	Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification	L-16
§ 10.	Default	L-22
§ 11.	Return of Units Upon Default	L-28
§ 12.	Assignment; Possession and Use	L-29
§ 13.	Renewal Options and Limited Right of Purchase	L-31
§ 14.	Return of Units upon Expiration of Term	L-35
§ 15.	Recording	L-38
§ 16.	Additional Opinions	L-38
§ 17.	Obligations of Owner-Trustee Under Security Document; Additional Rentals	L-39
§ 18.	Owner-Trustee's Right To Perform for the Lessee	L-39
§ 19.	Interest on Overdue Rentals	L-39

Page

§ 20. Notices L-39

§ 21. Owner-Trustee Acting as Trustee L-40

§ 22. No Recourse L-40

§ 23. Federal Income Taxes L-41

§ 24. Severability; Effect and Modification of Lease; Third Party Beneficiaries L-51

§ 25. Execution L-51

§ 26. Law Governing L-52

§ 27. Agreement for Benefit of the Owner L-52

TESTIMONIUM L-52

SIGNATURES L-52

ACKNOWLEDGMENTS L-53

SCHEDULE A L-54

SCHEDULE B L-55

LEASE OF RAILROAD EQUIPMENT dated as of July 20, 1979, between GAMS TRANSPORTATION, INC., an Ohio corporation (hereinafter called the Lessee), and FIRST SECURITY STATE BANK, a Utah corporation, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement), with GENERAL ELECTRIC CREDIT CORPORATION, a New York corporation (hereinafter called the Owner).

The Owner-Trustee has entered or will enter into a conditional sale agreement (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), pursuant to which the Owner-Trustee has agreed or will agree to purchase and take delivery of the railroad equipment described in Schedule A hereto (hereinafter called the Equipment).

The Builder is assigning its interests in the Security Document pursuant to an Agreement and Assignment (hereinafter called the Assignment) to First Security Bank of Utah, N.A., acting as Agent (hereinafter together with its successors and assigns called the Vendor), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessee, William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company (hereinafter called the Sublessee), the Owner-Trustee, the Owner and the party or parties named in Schedule A thereto (hereinafter called the Investors).

The Lessee agrees to lease from the Owner-Trustee all the units of the Equipment (or such lesser number of units as are delivered and accepted and settled for under the Security Document) at the rentals and for the term and upon the conditions hereinafter provided (each such unit so leased being hereinafter called a Unit).

To assure payment of certain of its obligations under this Lease, the Lessee, as principal, agrees to deliver or cause to be delivered to the Owner-Trustee, as obligee, a Surety Bond (hereinafter called the Bond), issued by

Great American Insurance Company, as surety (hereinafter called the Surety), and a form of Assumption and Assignment Agreement (hereinafter called the Assumption Agreement) to be entered into between the Surety (or its substitute permitted under the Bond) and the Owner-Trustee, if the Surety so elects, being attached as an exhibit thereto, substantially in the forms thereof approved by the Investors, the Vendor and the Owner-Trustee prior to the execution of this Lease.

The Lessee intends to sublease the Units pursuant to a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease) with the Sublessee, and to assign the Sublease to the Owner-Trustee pursuant to an Assignment of Sublease and Agreement dated as of the date hereof (hereinafter called the Sublease Assignment) and the Sublessee will consent to the Sublease Assignment pursuant to a Consent and Agreement substantially in the form attached thereto (hereinafter called the Sublease Assignment Consent).

The Owner-Trustee will assign certain of its rights under this Lease, the Bond, the Sublease and the Sublease Assignment as security to the Vendor pursuant to an Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement dated as of the date hereof (hereinafter called the Lease Assignment) and each of the Lessee, the Surety and Sublessee will consent to the Lease Assignment pursuant to a Consent and Agreement substantially in the form attached thereto (hereinafter collectively called the Consents).

NOW, THEREFORE, in consideration of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Owner-Trustee hereby agrees to lease 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, except as herein provided, the Lessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions, counterclaims or setoffs due or alleged to be due by reason of

any past, present or future claims of the Lessee against the Owner-Trustee or the Owner, whether under this Lease, under the Security Document or otherwise, including the Lessee's rights by subrogation hereunder or thereunder against the Owner-Trustee or the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Owner-Trustee or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or 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 Owner-Trustee, the Owner or the Vendor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Owner-Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Document; provided, however, that such acceptance shall be in accordance with the provisions of Article 3 of the Security Document. Each delivery of a Unit to the Owner-Trustee under the Security Document shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Owner-Trustee under the Security Document. Upon delivery of such Unit, the Lessee will cause an employee or agent of

the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Owner-Trustee under the Security Document and itself hereunder and to execute and deliver to the Owner-Trustee a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Document, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Owner-Trustee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next 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 delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the Security Document pursuant to the second paragraph of Article 3 or the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such Unit to this Lease. The Lessee hereby represents and warrants to the Owner-Trustee that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Lessee or its agent as agent for the Owner-Trustee hereunder.

§ 3. Rentals. With respect to each Unit subject to this Lease, the Lessee will pay to the Owner-Trustee as (i) basic rentals 74 consecutive quarterly payments, payable on January 15, April 15, July 15 and October 15 in each year, commencing July 15, 1980, and (ii) interim rental one payment on April 15, 1980. The first 68 quarterly rental payments shall each be in an amount equal to 2.5252% of the Purchase Price (as defined in the Security Document) of each Unit subject to this Lease on the date of such payment and the last six quarterly rental payments shall each be in an amount equal to 1.5126% of the Purchase Price of each Unit subject to this Lease on the date of such payment. The interim rental payment shall be in an amount equal to the product of the Purchase Price of each Unit subject to this Lease on the date of payment multiplied by .027083% for each day elapsed from and including the Closing Date (as defined in the Security Document) for such Unit to, but excluding, April 15, 1980. In the event that there is any deficiency amount required to be paid by the Owner-Trustee pursuant to the first paragraph of Paragraph 9 of the Participation Agreement, the rentals thereafter payable by the Lessee in respect of the Units shall be increased by such amount as shall, in the reasonable opinion of the Owner, cause the Owner's after-tax economic yield (computed on the same

assumptions, including tax rates, and utilizing the same methods as were utilized by the Owner in originally evaluating the transaction contemplated by the Participation Agreement) to equal the after-tax economic yield (such economic yield hereinafter called the Net Economic Return) that would have been realized by the Owner if such liability had not occurred.

In addition to the foregoing basic rentals, the Lessee will pay to the Owner-Trustee the following additional rentals: (i) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (a) of the last paragraph of Paragraph 9 of the Participation Agreement, (ii) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (b) of the last paragraph of Paragraph 9 of the Participation Agreement and (iii) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to the third paragraph of Paragraph 10 of the Participation Agreement, in each case on such date as will enable the Owner-Trustee to make such payment.

If any of the quarterly rental payment dates referred to above is not a Business Day (as such term is defined in the Security Document) the quarterly rental payment otherwise payable on such date shall then be payable on the next succeeding Business Day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next succeeding Business Day.

The Owner-Trustee irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments (other than payments under § 6 and § 23 hereof) due the Owner-Trustee provided for in this Lease including, but not limited to, all payments provided for in this § 3 and in § 7 hereof, (i) for so long as the Security Document shall remain in effect, to the Vendor, for the account of the Owner-Trustee, in immediately available funds at or prior to 11 a.m. (Salt Lake City time) to the office of the Vendor (at 79 South Main Street, Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department) on the date due, with instructions to the Vendor to apply such payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement, and (ii) if the Security Document shall no longer be in effect, to the Owner-Trustee or as directed by the Owner-Trustee in immediately available funds at such place as the Owner-Trustee shall specify in writing.

§ 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 October 15, 1998. Except for obligations of the Lessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9, 11, 14, 19 and 23 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 Vendor under the Security Document. If an event of default should occur under the Security Document as provided in § 10(D) hereof, the Vendor may terminate this Lease (or rescind its termination) and/or the Sublease (or rescind its termination) or any other sublease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Lessee will cause 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 or cause to be kept and maintained, 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 WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Owner-Trustee's title to and the Vendor's security interest in such Unit and the rights of the Owner-Trustee under this Lease and of the Vendor under the Security Document. The Lessee will not place or permit any such Unit to be placed 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 or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Lessee will not change or permit to be changed 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 Vendor and the Owner-

Trustee and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Owner-Trustee an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Owner-Trustee's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Owner-Trustee in such Units.

Except as above provided, 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; provided, however, that the Lessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Sublessee, so long as the Sublease shall remain in effect, or any other sublessee of the Equipment permitted by § 12 hereof, so long as a sublease with such sublessee shall remain in effect, or their respective affiliates, on railroad equipment used by them of the same or a similar type for convenience of identification of their respective rights to use the Equipment under the Sublease or such other sublease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Sublessee or such other sublessee therein.

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees to pay or cause to be paid, and on written demand to indemnify and hold the Owner-Trustee, the Owner, the Builder, the Vendor, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under the Security Document and the Participation Agreement harmless from all taxes (income, gross receipts, franchise, sales, use, property [real or personal, tangible or intangible], stamp and minimum [imposed under Section 56 of the Internal Revenue Code of 1954, as amended] taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Owner-

Trustee, the Owner, the Builder, the Vendor, the Investors, the Sublessee, the Lessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under the Security Document and the Participation Agreement, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; this Lease, the Lease Assignment, the Consents, the Sublease, the Sublease Assignment, the Sublease Assignment Consent, the Trust Agreement, the Participation Agreement (including the certificates of interest and the issuance thereof to Investors pursuant thereto), the Security Document, the Bond, the Assumption Agreement or the Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Security Document and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States or of any state or local government or governmental subdivision or authority thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Owner-Trustee (in its individual capacity), the Owner, the Investors, the Builder or the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease or the Sublease, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Lease or the Sublease shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Owner or any transfer or disposition

by or on behalf of the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease, without the consent of the Lessee, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence or an Event of Default shall have occurred and be continuing; (iii) any Taxes imposed on or measured by any trustee or agency fees received by the Owner-Trustee or the Vendor; and (iv) Taxes which are imposed on or measured solely by the net income of the Owner-Trustee or the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Lessee has not agreed to pay or indemnify against pursuant to this § 6; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting or causing to be contested the same in the manner provided in the fourth paragraph of this § 6. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or local government or governmental subdivision thereof, or of any foreign country or subdivision or authority thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Lessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

The amount which the Lessee shall be required to pay with respect to any Taxes indemnified against pursuant to this § 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

In the event that the Owner-Trustee shall become obligated to make any payment to the Builder, Investors, the Vendor or the estate held by the Vendor under the Security Document and the Participation Agreement pursuant to Article 6

of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, not covered by the first paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Owner-Trustee or the Owner as will enable the Owner-Trustee or the Owner to fulfill completely its obligations pursuant to said provisions. The Owner-Trustee agrees not to enter into any amendment of the Security Document or the Trust Agreement which would adversely affect the interest of the Lessee under this Lease without the written consent of the Lessee.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, or cause to be contested, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party, which consent shall not be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such indemnified party shall pay to the Lessee the amount of such refund or interest net of expenses, but only if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing.

In case any report or return is required to be made

with respect to any obligation of the Lessee under this § 6 or arising out of this § 6, except obligations resulting from the second sentence of the first paragraph of this § 6, the Lessee shall either make or cause to be made such report or return in such manner as will show the interests of the Owner-Trustee and the Vendor in the Units, or shall promptly notify or cause to be notified the Owner-Trustee, the Owner and the Vendor of such requirement and shall make or cause to be made such report or return in such manner as shall be satisfactory to the Owner-Trustee, the Vendor and the Owner. All costs and expenses (including reasonable legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

All the obligations of the Lessee under this § 6 shall survive and continue, notwithstanding payment in full of all amounts due under the Security Document or the termination of this Lease, but only with respect to periods included in the term of this Lease. Payment due from the Lessee under this § 6 shall be made directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

The Lessee shall furnish or cause to be furnished promptly, upon request, such information and data as are normally available to the Lessee and which the Owner-Trustee, the Vendor or the Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§ 7. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee, the Sublessee or any other sublessee permitted under § 12 hereof for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease (such occurrences being hereinafter called Casualty Occurrences), during the term of this Lease, or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Lessee shall

promptly and fully notify or cause to be notified (after the Lessee, the Sublessee or any sublessee permitted under § 12 hereof has knowledge of such Casualty Occurrence) the Owner-Trustee, the Owner and the Vendor with respect thereto. On the rental payment date (not earlier than the first regular quarterly rental payment date) next succeeding the delivery of such notice (or, in the event such rental payment date will occur within 15 days after delivery of notice, on the following rental payment date, or, in the event the term of this Lease has already expired or will expire within 15 days after delivery of such notice, on a date within 15 days of such delivery), the Lessee shall pay or cause to be paid to the Owner-Trustee 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 of such Unit as of such payment date (such rental payment date being hereinafter called the Calculation Date). Upon the making of such payment by or on behalf of the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Owner-Trustee shall be entitled to recover possession of such Unit.

If the date upon which the making or causing to be made of such payment by the Lessee in respect of any Unit as required as aforesaid shall be after the term of this Lease in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term but the Lessee, in addition to paying the Casualty Value for such Unit shall pay or cause to be paid interest thereon from the end of such term to the date of such payment at the greater of (i) the prime rate of interest which Manufacturers Hanover Trust Company charges on the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing and (ii) 10.75% per annum.

The Owner-Trustee hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Owner-Trustee and no Event of Default hereunder, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to retain the proceeds of such sale to the extent they do not

exceed the Casualty Value of such Unit, and shall pay any excess to the Owner-Trustee. If any such Event of Default or event has occurred and is continuing, the Lessee shall promptly pay all such proceeds to the Owner-Trustee.

The Casualty Value of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of each Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in § 23 hereof). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

In the event of the requisition for use of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall constitute 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 at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Owner-Trustee pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return rather than at the end of the term of this Lease; 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 Owner-Trustee or the Lessee from the requisitioning authority for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing; and all payments received by the Owner-Trustee or the Lessee from the requisitioning authority for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Owner-Trustee.

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 prior to the return of the Equipment to the Owner-Trustee in accordance with the terms of this Lease (including the storage period provided under §§ 11 and 14 hereof), maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Units at the time subject hereto, 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 Sublessee or any other sublessee permitted by § 12 hereof on similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $10,000,000 (with a deductible of not greater than $1,000,000) per occurrence. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee, the Lessee, the Surety, the Sublessee and any other sublessee permitted under this Lease as their respective interests may appear.

The Lessee will, at all times prior to the return of the Equipment to the Owner-Trustee in accordance with the terms of this Lease, at its own expense, carry and maintain or cause to be carried and maintained public liability insurance, naming the Owner, the Surety, the Owner-Trustee and the Vendor as additional named insureds as their respective interests may appear, 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 Sublessee or any other sublessee permitted by § 12 hereof in respect of similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $29,000,000 (with a deductible of not greater than $2,000,000) per occurrence; provided, further, in the case of any other such sublessee, the form of insurance, amounts of coverage, risks insured against and underwriters shall be subject to the prior approval of the Owner, which approval shall not be unreasonably withheld. Any policy of insurance carried in accordance with this paragraph shall not provide for any payment of premiums or commissions by the Owner, the Owner-Trustee, or the Vendor.

The Lessee shall obtain from each insurer under the two paragraphs immediately above an agreement, by endorsement or separate instrument, that such insurer will give the

Owner-Trustee, the Owner, the Surety and the Vendor 30 days' written notice before such insurer's policy shall be materially altered or canceled or not renewed. On or prior to the delivery and acceptance of any Unit hereunder and under the Security Document, and in January of each year, the Lessee shall deliver to the Owner-Trustee, the Owner, the Surety and the Vendor a certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1980, the Lessee will furnish or cause to be furnished to the Owner-Trustee, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Owner-Trustee or the Vendor may reasonably request prepared by an independent qualified engineer who may be the chief mechanical officer of the Sublessee or any other employee of the Sublessee and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and the Security Document have been preserved or replaced. The Owner-Trustee shall have the right by its agents to inspect the Units and the Lessee's and its agent's records with respect thereto at such reasonable times as the Owner-Trustee may request during the continuance of this Lease.

The Lessee agrees at its expense to prepare and deliver or cause to be prepared and delivered to the Owner-Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Owner-Trustee) any and all reports (other than income tax returns) to be filed by the Owner-Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Owner-Trustee or the Vendor of the Units or the leasing thereof to the Lessee or the subleasing thereof to

the Sublessee or any other sublessee permitted by § 12 hereof.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. NEITHER THE OWNER-TRUSTEE NOR THE OWNER MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE OWNER-TRUSTEE NOR THE OWNER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF 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 OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Owner-Trustee and the Lessee, are to be borne by the Lessee; but the Owner-Trustee hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Owner-Trustee and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Owner-Trustee may have against the Builder. The Owner-Trustee and the Owner shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance 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 Owner-Trustee that the Units described therein are in all the foregoing respects satisfactory to the Lessee; and the Lessee will not assert any claim of any nature whatsoever against the Owner-Trustee or the Owner based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Owner-Trustee, the Owner and the Vendor, to comply and to cause

the Sublessee and any other sublessee to comply with in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all the laws of the jurisdiction in which its, the Sublessee's or any other sublessee's operations involving the Unit may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will or will cause the Sublessee or any other sublessee to fully conform therewith at no expense to the Owner-Trustee or the Vendor; provided, however, that the Lessee may upon written notice to the Owner-Trustee and the Vendor, in good faith, contest or cause to be contested the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Owner-Trustee or the Vendor, adversely affect the property or rights of the Owner-Trustee or the Vendor, respectively, under this Lease or under the Security Document.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an Addition thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and, in any event, in the condition that will permit such Unit to qualify as a box car of "XF Class" as defined, as of July 20, 1979, by the Association of American Railroads; provided, however, that the Lessee shall not be required to keep any Unit in actual "XF" service.

The Lessee and its affiliates, at their own cost and expense, may from time to time make or permit the Sublessee or any other sublessee permitted under § 12 hereof to make such alterations, modifications and additions (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the United States Department of Transportation, the Interstate Commerce Commission or any other legislative,

executive, administrative or judicial body exercising any power or jurisdiction over such Unit) (hereinafter collectively called Additions) to the Units as the Lessee may deem desirable in the proper conduct of its or any sublessee's business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease; provided, however, that no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such addition not been made assuming the Unit was then in the condition required to be maintained by the terms of this Lease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Owner-Trustee and be subject to a valid first lien and prior perfected security interest under the Security Document in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for, any such original Part, (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the terms of the second or third paragraph of this § 9 or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee or its sublessees. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Lessee shall pay or cause to be paid, and shall protect, indemnify and hold the Owner-Trustee, the Owner, the Investors and the Vendor (for purposes of this paragraph only, as defined in the Security Document), and their respective successors, assigns, principals, agents and servants (hereinafter called Indemnified Persons), as third party beneficiaries hereof, 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 reasonable 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, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or imposed by statute; (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 Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder) or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Owner-Trustee's obligations under the Lease Assignment, the Security Document or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Owner-Trustee; (viii) any claim arising out of the Vendor's holding a security interest under the Security Document or the Lease Assignment; or (ix) any claim for any service fee, selling fee, purchase fee, finder's fee and/or commission in connection with the Units; excluding,

however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant under the Security Document by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A to the Security Document. All payments hereunder shall be made directly to the Indemnified Person. 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 reasonable 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 reasonable 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 or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Owner-Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any indemnities as contained in this § 9 by the Lessee, and provided that no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing,

the Lessee shall be subrogated to any right of such Indemnified Person 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 such 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 in respect of such matter.

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

In the event that the Owner-Trustee shall become obligated to make any payment to the Investors or the Vendor (for purposes of this paragraph only, as defined in the Security Document) pursuant to Article 13 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, not covered by the foregoing provisions of this § 9, the Lessee shall pay such additional amounts to the Owner-Trustee or the Owner as will enable the Owner-Trustee or the Owner to fulfill completely its obligations pursuant to said provisions; provided, however, no such payment shall be required with respect to payments arising as a result of the gross negligence or wilful misconduct of the Owner-Trustee or the Owner.

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 occur-

ring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Owner-Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of any payment or other obligation, including without limitation the payment of any installments of principal or interest, under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

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

(A) payment of any part of the rental provided in § 3 or § 13 hereof or payment in respect of any Casualty Occurrence pursuant to § 7 hereof shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for 10 business days after such payment is due; or

(B) (x) any representation or warranty of the Lessee contained in the Participation Agreement or herein (except the representations and warranties contained in § 23 hereof) shall have been incorrect in any material respect as of the date when made, unless (i) such misrepresentation or the breach of such warranty has been cured, if curable, within 30 days after written notice thereof to the Lessee from the Owner-Trustee or the Vendor, or (ii) there is no material adverse effect on the rights of the Owner-Trustee, the Owner or the Vendor hereunder resulting from such misrepresentation or breach, or (iii) any damages resulting from such misrepresentation or breach shall have been paid within 30 days after demand therefore, to the satisfaction of the Owner-Trustee, the Owner and the Vendor, or (y) 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 or in the Par-

ticipation Agreement, and such default shall continue for 30 days after written notice from the Owner-Trustee or the Vendor to the Lessee and the Surety specifying the default and demanding that the same be remedied; or

(C) the Lessee shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or any of its properties or assets, (ii) be unable, or admit in writing its inability, to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated a bankrupt or insolvent or (v) file a voluntary petition in bankrutpcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or if corporate action shall be taken by it for the purpose of effecting any of the foregoing; or any proceedings shall be commenced against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease or under the Participation Agreement 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 Participation Agreement), and such proceedings shall continue unstayed and in effect for any period of 60 days; or

(D) an event of default set forth in subparagraph (e) with respect to the Surety, or in subparagraph (g), of Article 15 of the Security Document shall have occurred; or, any other event of default set forth in such Article 15 shall have occurred and either (i) such event results from any default by the Lessee in performing any of its obligations hereunder or under the Participation Agreement or (ii) the Payments (as defined in the Lease Assignment) are not being applied by the Owner-Trustee as provided in Paragraph 1 of the Lease Assignment;

then, in any such case, if the Sublease is then in effect, upon notice by the Owner-Trustee to the Lessee, and without

any other action or consents (i) the participation of the Lessee as sublessor under the Sublease or any other sublease shall be terminated and (ii) the Owner-Trustee shall be substituted for the Lessee, for all purposes, as the sublessor under the Sublease or such other sublease, and, whether or not such notice is given, the Owner-Trustee may 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. The Owner-Trustee, at its option, may, in any such case:

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

(b) by notice in writing to the Lessee terminate this Lease,* whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Owner-Trustee may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Owner-Trustee shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not

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* Notice: termination of this Lease prior to the end of certain periods provided in the Bond may prevent satisfaction of certain conditions precedent to recovery under the Bond.

as a penalty, whichever of the following amounts the Owner-Trustee, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) 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 (2) the then present value of the rentals which the Owner-Trustee reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 8% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Owner-Trustee shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount 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 amount the Owner-Trustee reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Owner-Trustee shall have sold or leased any Unit, the Owner-Trustee, in lieu of collecting any amounts payable to the Owner-Trustee by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Owner-Trustee and the Lessee shall pay to the Owner-Trustee on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such a sale an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale, and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Lease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Owner-Trustee reasonably estimates to be

obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Lease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 8% per annum discount, compounded, in the case of rental which is estimated under clause II of this sentence, quarter-annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

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 Owner-Trustee's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Owner-Trustee 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 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 any offset against the rental payments due hereunder and agrees to make such rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Owner-Trustee to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Owner-Trustee.

The Lessee also agrees to furnish the Owner-Trustee, the Owner, the Surety and the Vendor, promptly upon any responsible officer's becoming aware of any condition which

constitutes an Event of Default, or which with 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 § 10 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 official of the Lessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

The Lessee acknowledges that the Owner-Trustee and the Surety have entered into the Bond which provides that in the event of an Event of Default under this Lease, the Surety or the Surety's substitute permitted under the Bond (references to Surety in this paragraph to mean Surety or the Surety's substitute) shall have the right to assume all the rights and obligations of the Lessee under this Lease and to receive an assignment of this Lease and/or of the Owner-Trustee's rights against the Lessee under this Lease. The Lessee agrees that upon receiving notice of any such assumption from the Surety, it will upon request of the Surety and at the option of the Surety (i) deliver possession of the Units to the Surety and convey, transfer or assign to the Surety as provided in § 11 below as though the Surety were named as the Owner-Trustee therein all the Lessee's right, title and interest in the Sublease and any other subleases, car contracts or other agreements with respect to the Units and take any other action and execute any documents reasonably requested by the Surety or the Owner-Trustee, which such delivery of the Units and conveyance, transfer or assignment shall terminate Lessee's leasehold interest in the Units but shall not release Lessee from any unfulfilled obligations under this Lease or (ii) become the sublessee of the Surety in respect of the Units with the rights and obligations of the Surety and the Lessee being the same as if the Surety had originally been designated as the lessor under this Lease in place of the Owner-Trustee. Lessee further acknowledges and agrees that no payment by Surety or for Surety's account, to the Owner-Trustee, whether under the Bond or pursuant to said assumption or otherwise, shall constitute an amount arising in respect of a sale or lease of the Units of Equipment for purposes of measuring liquidated damages recoverable, whether by Owner-Trustee or the Surety or any other person and whether by subrogation, assignment of rights or otherwise, from the Lessee pursuant to paragraph (b) of this § 10.

§ 11. Return of Units Upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver or cause to be delivered possession of the Units to the Owner-Trustee and shall give or cause to be given prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Owner-Trustee pursuant to this § 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear and modifications, if any, permitted by this Lease excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any Unit or Units to the Owner-Trustee as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Owner-Trustee and there assembled,

(b) furnish and arrange for the Owner-Trustee to store such Units on any lines of railroad or premises approved by the Owner-Trustee until such Units have been sold, leased or otherwise disposed of by the Owner-Trustee, and

(c) cause the Units to be moved to such interchange point or points as shall be designated by the Owner-Trustee upon any sale, lease or other disposal of all or any of the Units.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee (and the Lessee will maintain the insurance required by § 7 of this Lease to be maintained during this period) and are of the essence of this Lease; and, upon application to any court of equity having jurisdiction in the premises, the Owner-Trustee 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 Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of any such Unit, to

inspect the same. In the event that the Units or any thereof are sold, the Lessee shall pay to the Owner-Trustee the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Owner-Trustee as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Owner-Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time and to give all appropriate notices and directions to the Association of American Railroads to change the registration of such Unit from the Lessee or the Sublessee to the Owner-Trustee or as the Owner-Trustee may direct.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Owner-Trustee without the consent of the Lessee; but the Lessee shall be under no obligation to any assignee of the Owner-Trustee other than the Vendor except upon written notice of such assignment from the Owner-Trustee. All the rights of the Owner-Trustee hereunder (including, but not limited to, the rights under §§ 6, 7, 10 and 23 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Owner-Trustee's successors and assigns, including the Vendor, except to the extent the same may be reserved to the Owner-Trustee.

So long as no Event of Default hereunder shall have occurred, the Lessee shall be entitled to the possession of the Units in accordance with the terms of this Lease but, except pursuant to the Sublease or as permitted by the provisions of the following two paragraphs, 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 as permitted by the provisions of the following two paragraphs and other than an encumbrance created by the Owner, the Owner-Trustee or the Vendor and not the result of an Event of Default or resulting from claims against the Owner, the

Owner-Trustee or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Owner-Trustee, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor and the Owner-Trustee, materially adversely affect the interest of the Vendor or the Owner-Trustee in the Equipment, the Vendor's interest in the income and proceeds from the Equipment, or otherwise under this Lease or the Security Document. Except pursuant to the Sublease and except to the extent permitted by the provisions of the following two paragraphs, the Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units.

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 hereof and to permit the use of the Units by the Sublessee or by a railroad company or companies incorporated in the United States of America with which the Sublessee has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights or over which railroad equipment of such railroad company or companies 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, the Sublease and the Security Document; provided, however, that the Lessee shall not assign, sublease or permit the assignment, sublease or use of any Unit predominantly outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), nor shall the Lessee assign or sublease to, or permit the sublease or use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of the Code. The Lessee and the Sublessee may receive and retain compensation for such use from other railroads so using any of the Units.

Upon termination of the Sublease, if the Lessee shall not be in default under this Lease, the Lessee may sublease the Units to or otherwise enter into agreements (any such sublease or agreement being herein called a sublease) for the use of the Units by a railroad company or companies or other user of rolling stock, provided that (i) the sublease shall contain provisions similar to §§ 3 (fourth paragraph), 4 (fourth paragraph), 10(E) and 12 (proviso in the third paragraph) of the Sublease and such sublease shall not have a term (together with renewal options) beyond the term of this Lease (together with renewal options), (ii) such sublease shall be assigned to the Owner-Trustee under an assignment and agreement substantially in the form of the Sublease Assignment (together with a Consent and Agreement of the sublessee in the form attached thereto) and, if the Security Document is still in effect, assigned by the Owner-Trustee to the Vendor under an assignment and agreement substantially in the form of the Lease Assignment (together with a Consent and Agreement of the sublessee in the form attached thereto) and (iii) the sublease shall not contain any provisions which would, or the performance of which would, with notice or lapse of time or both, result in an Event of Default under this Lease.

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

§ 13. Renewal Options and Limited Right of Purchase. The Owner-Trustee intends to retain the Units for re-lease at the expiration of the term of this Lease. 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 Owner-Trustee not less than six months prior to the end of the original term of this Lease elect to extend the term of this Lease in respect of

all, but not fewer than all, the Units then covered by this Lease for one additional three-and-one-half-year period commencing on the scheduled expiration of the original term of this Lease, at a quarterly rental equal to the sum of (i) 1.0126% of the Purchase Price of each Unit subject to this Lease on the date such rental is payable and (ii) the quarterly premium on the Bond as provided therein; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Lease.

Provided that this Lease has not been earlier terminated, the Lessee is not in default hereunder, the Lessee has not elected to extend this Lease under the first paragraph of this § 13, the Sublease has not been earlier terminated, the Sublease has been extended as provided in the first paragraph of § 13 thereof and the Sublessee is not in default thereunder, the Sublessee may, as third-party beneficiary hereof, by written notice delivered to the Owner-Trustee not more than six nor less than four months prior to the end of the original term of this Lease elect, on its own behalf, subject to the approval of the then credit standing of the Sublessee by the Owner, which approval shall not be unreasonably withheld, to extend the term of this Lease and assume the obligations of the Lessee hereunder for one additional three-and-one-half-year period commencing on the scheduled expiration of the original term of this Lease at a quarterly rental rate equal to the Rock Island Fair Market Rental Value (as defined below) of each Unit then subject to this Lease; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of such three-and-one-half-year term. Any such election, extension and assumption of the Lease pursuant to this paragraph by the Sublessee shall be in its own capacity (and not as agent for the Lessee) and the Owner-Trustee agrees that the Lessee shall not be a party to or liable for any obligations arising under this Lease during such extension and hereby releases the Lessee with respect to any such obligations.

Provided the Lessee exercises the renewal option provided in the first paragraph of this § 13, and 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 Owner-Trustee not less than six months prior to the end of the original term of this Lease, as extended pursuant to the first paragraph of this § 13,

elect to extend the term of this Lease in respect of all, but not fewer than all, the Units then covered by this Lease for one additional five-year period commencing on the scheduled expiration of the term of this Lease (as so extended), at a quarterly rental rate equal to the Fair Market Rental Value of each Unit then subject to this Lease; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Lease.

"Fair Market Rental Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing lessee-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to so further extend the term of this Lease pursuant to the third paragraph of this § 13, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value of the Units, such value shall be determined in accordance with the foregoing definition by the following appraisal procedure: If either party to such determination shall have given written notice to the other requesting determination of such value 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 prior to the expiration of the original term of this Lease, as extended pursuant to the first paragraph of this § 13. 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, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall be

final and binding upon 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 by the Lessee.

"Rock Island Fair Market Rental Value" shall be determined on the basis of the value which would be obtained as of the commencement of the renewal period referred to in the second paragraph of this § 13 in an arm's length transaction between an informed and willing lessee-user with a credit standing comparable to the credit standing of the Sublessee at the commencement of such period (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease. If, after 60 days from the giving of notice by the Sublessee of the Sublessee's election to extend the term of this Lease pursuant to the second paragraph of this § 13, the Owner-Trustee and the Sublessee are unable to agree upon a determination of the Rock Island Fair Market Rental Value of the Units, the right of the Sublessee to extend this Lease under the election in the second paragraph of this § 13 shall expire.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, and in the event the Lessee has elected to extend the original term of this Lease pursuant to the first paragraph of this § 13 but has not elected to extend the term of this Lease (as so extended) pursuant to the third paragraph of this § 13 and the Owner-Trustee elects to sell any Units to third parties at the expiration of the term of this Lease (as so extended), the Lessee shall be given written notice of such election prior to the expiration of the term of this Lease, as so extended (such date being hereinafter called the Expiration Date). Subject to the first sentence of this paragraph, in the event that the Owner-Trustee shall receive, prior to 90 days after the Expiration Date, a bona fide offer in writing from another party to purchase the Units and the Owner-Trustee elects to sell the Units pursuant to such offer, the Owner-Trustee shall give written notice to the

Lessee of such offer. Such notice shall be given to the Lessee on any date between 60 days before and 90 days after the Expiration Date and shall include the price and, if such offer was for other than solely cash, the other terms and conditions offered by the other party to the Owner-Trustee. The Lessee shall have the sole right and option, for a period of 20 days from the date of delivery of such notice, to purchase the Units for cash at the price, or at the price and (after giving effect to credit standing of the Lessee at the time of exercise of such purchase right) on substantially similar terms and conditions, at which the Units are proposed to be sold. The Lessee shall exercise such purchase right by delivery to the Owner-Trustee of a written notice specifying a date of purchase, which date shall not be later than the later of (i) 15 days after the date of delivery of such notice by the Lessee to the Owner-Trustee or (ii) 45 days after the Expiration Date. In the event that the Lessee shall have delivered a notice of its election to purchase the Units, this Lease (including the obligation to pay rent) shall be further extended or renewed upon the same terms and conditions set forth herein from the Expiration Date or the date such notice is delivered, as the case may be, to the Owner-Trustee until the date of such purchase.

§ 14. Return of Units upon Expiration of Term. On or prior to the termination of the term of this Lease or as soon as practicable on or after the termination of the term of this Lease and in any event not later than 90 days after the termination of the term of this Lease the Lessee will, at its own cost and expense, at the request of the Owner-Trustee, cause each Unit to be transported to such point or points on the Sublessee's or any sublessee's lines as shall be designated by the Owner-Trustee immediately prior to such termination and arrange for the Owner-Trustee to store such Unit on any of Sublessee's or any sublessee's lines of railroad or premises approved by the Owner-Trustee for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 120 days from the date at which at least 95% of such Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable for any injury to or the death of any person

exercising, either on behalf of the Owner-Trustee or any prospective purchaser or user, the rights of inspection granted under this sentence, except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents and except to the extent otherwise provided by law. The assembly, 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 Owner-Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Owner-Trustee pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Owner-Trustee pursuant to § 9 hereof and have removed therefrom at Lessee's expense any Part or Addition title to which is in the Lessee or any other person pursuant to such § 9 and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. If any Unit suffers a Casualty Occurrence during any period prior to its return to the Owner-Trustee as provided for in this § 14 or during any storage period provided for in this § 14, the Lessee shall pay to the Owner-Trustee the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of the term of this Lease as to such Unit, belong to and be the property of the Owner-Trustee. In the event that by the 120th day after the termination of the original or any extended term of this Lease the Lessee has not, at the request of the Owner-Trustee, caused at least 95% of the Units to be transported to such point or points as shall have been designated by the Owner-Trustee pursuant to this § 14, the Lessee shall pay to the Owner-Trustee the per diem interchange multiplied by the number of Units equal to the difference between 95% of such Units and the number of Units previously delivered pursuant to this § 14 (such number to be determined on each day) for each day from such 120th day to the date on which at least 95% of the Units have been so transported. If, after the termination of the storage period provided in this § 14, any Units have not been so transported, the Lessee shall pay to the Owner-Trustee the per diem interchange for each Unit not so transported for each day after the end of such storage period until such

Unit or Units have been so transported; provided, however, that if any Unit has not suffered a Casualty Occurrence prior to the first anniversary of the termination of this Lease and has not been so transported within one year after the termination of the term of this Lease, such Unit shall be deemed to have suffered a Casualty Occurrence and the Lessee shall pay or cause to be paid to the Owner-Trustee, on the 10th day after the expiration of such year, an amount equal to the greater of (x) the Casualty Value of such Unit as of such payment date or (y) the Fair Market Value of such Unit as of the date this Lease terminated and assuming such Unit had not experienced a Casualty Occurrence and was then in the condition required to be maintained by the terms of this Lease. If, after 10 days from the expiration of such year, the Owner-Trustee and the Lessee are unable to agree upon a determination of the Fair Market Value of any such Unit, such value shall be determined in accordance with the appraisal procedure specified in the fourth paragraph of § 13 hereof and payment of such amount shall be made on the fifth business day following the determination of such Fair Market Value. "Fair Market Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing buyer (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell.

Upon the expiration of the original term of this Lease on October 15, 1998, if neither the Lessee nor the Sublessee shall not have elected to exercise the renewal options provided by the first and second paragraphs of § 13 hereof, the Lessee will deliver to the Owner-Trustee a certificate of an officer of the Lessee to the effect that (a) no Event of Default or event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of October 15, 1998; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against the Owner-Trustee or the Owner) were, as of October 15, 1998, imposed on or with respect to any Unit, any accession thereto, or the interest of the Owner-Trustee or the Owner therein; (c) the Units have been returned to the Owner-Trustee pursuant to this § 14 in the same operating order, repair and condition required by the first paragraph of this § 14 and (d) the Lessee no longer has any interest in the Units under the Lease or otherwise. If a certificate of an officer of the Lessee is required to be furnished pursuant to the preceding sentence, the certificate described in clause (a) in the

preceding sentence shall be furnished on October 15, 1998, and the certificates described in clauses (b), (c) and (d) in the preceding sentence, in addition to being furnished on October 15, 1998, shall be furnished on a monthly basis, beginning on November 15, 1998, and such certificates shall cover each Unit returned during the preceding 30 calendar days and shall apply to each such Unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this § 14. Upon the expiration of any extended term of this Lease, if the Lessee shall not have elected to exercise any further renewal option or if the Lessee shall have no such further renewal option, the Lessee shall deliver to the Owner-Trustee a certificate or certificates of an officer of the Lessee to the foregoing effect, with such conforming changes as shall be appropriate under the circumstances.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the Security Document, the Lease Assignment, the Sublease, the Sublease Assignment, any sublease permitted by § 12 hereof (including the required assignment and reassignment thereof), and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessee will, at its own expense, undertake the filing, registering, deposit, and recording required of the Owner-Trustee under the Security Document 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 Owner-Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Owner-Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Document or the Lease Assignment.

§ 16. Additional Opinions. The Lessee will promptly furnish to the Vendor and the Owner-Trustee evidence of every filing, registering, depositing or recording required pursuant to § 15 hereof, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Owner-Trustee. This Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 17. Obligations of Owner-Trustee Under Security Document; Additional Rentals. In the event that the Owner-Trustee shall become obligated to make any payment (other than payments in settlement for Equipment or the principal of or interest on the Conditional Sale Indebtedness (as defined therein) pursuant to the Security Document and pursuant to the proviso to the third paragraph of Article 12 thereof) or to perform any obligations pursuant to the Security Document 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 Owner-Trustee's obligations (other than as aforesaid) pursuant to the Security Document shall be fully complied with, without regard for any limitation of liability of the Owner-Trustee contained in the Security Document.

§ 18. Owner-Trustee's Right To Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein or in the Bond, the Owner-Trustee may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Owner-Trustee incurred in connection with such performance or compliance, together with interest on such amount at the rate of 10.75% per annum (or such lesser amount as may be legally enforceable), shall be payable by the Lessee upon demand.

§ 19. 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 an amount equal to interest at a rate of 10.75% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 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 delivered to such other party or by registered or certified mail, postage prepaid, addressed as follows:

if to the Owner-Trustee, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Division;

if to the Lessee, care of Thayer, Ringoen & Macdonald, 50 California Street, San Francisco,

California 94111, attention of President;

if to the Owner, at P. O. Box 8300, Stamford, Connecticut 06904, Attention of Manager-Operations, Leasing and Industrial Loans, with a separate copy to Attention of Manager-Rail Component;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party. Any notice to the Lessee by the Vendor or the Investors regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Owner-Trustee.

§ 21. Owner-Trustee Acting as Trustee. The representations, undertakings and agreements herein made on the part of the Owner-Trustee are made and intended for the purpose of binding only the Trust Estate as such term is defined in the Trust Agreement.

Whenever the term Owner-Trustee is used in this Lease it shall apply and refer to the Owner-Trustee and any assignee of the Owner-Trustee.

§ 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 Owner-Trustee or the Lessee, or against the Owner or any other beneficiary of a trust for which the Owner-Trustee is acting as trustee, 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, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

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 Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements

by the Owner-Trustee, or for the purpose or with the intention of binding the Owner-Trustee personally but are made and intended for the purpose of binding only the Trust Estate and this Agreement is executed and delivered by the Owner-Trustee solely in the exercise of the powers expressly conferred upon the Owner-Trustee as Owner-Trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Owner-Trustee or the Owner on account of any representation, undertaking or agreement hereunder of the Owner-Trustee or the Owner, either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 of the Security Document and subparagraph (a) of the third paragraph of Article 4 of the Security Document; 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; provided, however, that the Lessee or any person claiming by, through or under the Lessee making claim hereunder, may look to said Trust Estate for satisfaction of the same.

§ 23. Federal Income Taxes. This Lease has been entered into on the basis that an opinion of the chief mechanical officer of the Sublessee to the effect described in subsection (iv) of Paragraph 8 of the Participation Agreement will be provided to the Owner; that the Owner, as the beneficial owner of each Unit, shall be entitled to such deductions, credits and other benefits provided by the Code to an owner of property, including, without limitation, (a) deductions for depreciation of each Unit under section 167 of the Code computed on the basis (i) that each Unit will have a basis under section 167(g) of the Code at least equivalent to the Purchase Price of such Unit, (ii) initially of the declining balance method, using a rate equal to 200% of the straight line rate, switching to the sum of the years-digits method authorized by section 167(b)(3) of the Code in the year in which such switch will result in a greater depreciation deduction than would be available under the declining balance method, without obtaining the consent of the Commissioner of Internal Revenue in accordance with Treasury Regulation § 167(a)-11(c)(1)(iii), (iii) of the asset depreciation range and class life system permitted by section 167(m) of the Code and Treasury Regulation § 1.167(a)-11(a)(1), (iv) of an asset depreciation period of 12 years, (v) of a net salvage value of zero after the reduction permitted by section 167(f)(1) of the Code and (vi) that the Units of Equipment shall be treated as having been placed in

service on the respective dates on which they are accepted and delivered under this Lease and the Security Document (hereinafter called the ADR Deductions), (b) deductions with respect to interest payable on the Conditional Sale Indebtedness (hereinafter called the Interest Deductions), and (c) investment credit pursuant to section 38 of the Code at least equal to 10% of the aggregate Purchase Price of such Unit (hereinafter called the Investment Credit). This Lease has also been entered into on the assumption that (1) for Federal income tax purposes all amounts includible in the gross income of the Owner with respect to the Equipment and all deductions allowable to the Owner with respect to the Equipment will be treated as derived from, or allocable to, sources within the United States, (2) for purposes of computing the ADR Deductions with respect to the Equipment for the calendar year in which the Units of Equipment were first placed in service, the Owner will be entitled to elect and will elect the half-year convention and (3) the Federal rate of tax imposed on taxable income of corporations in excess of $100,000 will be 46% through the date of acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing.

The Lessee agrees to use its best efforts to maintain sufficient records to verify the amount of income and deductions in respect of each Unit of Equipment allocable to sources within and without the United States. The Lessee agrees to give the Owner, within 60 days after request therefor, written notice describing the amount of income and deductions allocable to sources within and without the United States and specifying in reasonable detail the basis on which such allocations were made, if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner. In addition, within 90 days after the end of each calendar year, beginning with the year 1979, the Lessee agrees to furnish to the Owner a statement to the effect that none of the Equipment has been

used outside of the United States other than in Canada or Mexico on a temporary basis not exceeding 90 days during the preceding calendar year, or if any of the Equipment was used outside the United States during such year, giving the appropriate details of any such use, which statement shall be signed by the chief financial officer of the Lessee.

The Lessee represents and warrants that (i) all of the Units constitute property the entire Purchase Price of which qualifies for the Investment Credit under Section 50 of the Code; (ii) at the time the Owner-Trustee becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of section 48(b) of the Code and at the time the Owner-Trustee becomes the owner of the Units, the Units will not have been used or placed in service by any person so as to preclude "the original use of such property" within the meaning of sections 48(b) and 167(c)(2) of the Code from commencing with the Owner-Trustee; (iii) at all times during the original term of this Lease and all renewal terms, each Unit will constitute "section 38 property" within the meaning of section 48(a) of the Code; and (iv) at all times during the original term of this Lease and the renewal periods, the Owner will be entitled to treat, for Federal income tax purposes, each item of income, deduction and credit relating to all Units subject to this Lease as being derived from, or allocable to, sources within the United States.

If, for Federal income tax purposes, as a result of any reason whatsoever, but excluding any of the specific occurrences or events specified in the sixth paragraph of this § 23, (a) the Owner shall not be entitled to, shall suffer a disallowance or recapture of, shall lose the benefit of, or shall lose the right to claim (including a good faith determination based upon the opinion, to be obtained at the cost of the Lessee, of independent tax counsel of the Owner approved by the Lessee ("Special Tax Counsel"), which approval shall not be unreasonably withheld, that such claim is not allowable), all or any portion of the Investment Credit, the ADR Deductions or the Interest Deductions or (b) any item of income, deduction or credit with respect to the Equipment shall not be treated as derived from, or allocable to, sources within the United States (any such event described in clause (a) or (b) of this paragraph being hereinafter called a Loss), then the Lessee, at its option, after receiving written notice from the Owner of

such Loss together with a certificate of an officer of the Owner setting forth in reasonable detail the computations and methods used in calculating such Loss and the amount or amounts of the payments required to be made pursuant to clause (i) or (ii) below (such notice and certificate being hereinafter collectively called the Net Economic Return Notice), shall either (i) commencing with the next rental payment date occurring more than 30 days after receipt by the Lessee of the Net Economic Return Notice, which Net Economic Return Notice may not be delivered more than 30 days prior to payment by the Owner of the tax which becomes due as a result of the Loss, increase the rental payments under this Lease over its remaining term by an amount as shall cause the Owner's Net Economic Return (as defined in § 3 of this Lease) to equal the Net Economic Return that would have been realized by the Owner if such Loss had not occurred, such increase in the rental payments to be made directly to the Owner, or (ii) within 30 days of receipt of the Net Economic Return Notice, pay to the Owner in lump sum the amount as shall, in the reasonable opinion of the Owner, be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred. If the option under (ii) above is selected, then to the extent any Loss results in a later benefit to the Owner which has not been taken into account in determining the lump-sum payment, payment will be made to the Lessee at the time such benefit is realized; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Owner pursuant to the option specified in (ii) above in respect of a Loss less (y) the amount of all prior payments by the Owner to the Lessee hereunder, and the amount by which such payment would exceed such amounts shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Owner pursuant to the option specified in (ii) above. The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions as were utilized by the Owner in originally evaluating the transaction except for the assumption that has resulted in such adjustments.

In the event that the Owner suffers a Loss and the Owner and the Lessee are unable to agree, within 60 days following the Lessee's receipt of a Net Economic Return Notice, on the indemnity amounts or amounts required to restore the

Owner's Net Economic Return, then the Lessee shall pay in a lump sum within 30 days after expiration of said 60-day period, such amount as shall, in the reasonable opinion of the Owner (regardless of whether the Lessee agrees therewith) be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred.

If there is any amendment to, or change in, the Code or any regulation thereunder which is effective on or prior to the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease, and if such amendment or change affects the privilege of the Owner to file consolidated Federal, state and local income tax returns with corporations affiliated with it, or the Federal rate of tax on the taxable income of corporations, then the amounts of rentals and the Casualty Values under this Lease will be appropriately adjusted by such amount or amounts as shall, in the reasonable opinion of the Owner, cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such amendment or change had not occurred; provided, however, that the rentals and Casualty Values, as so adjusted, shall not be less than amounts sufficient to satisfy the obligations of the Owner-Trustee under the Security Document.

Any late payment by any party hereto of any of its obligations under this § 23 shall result in the obligation on the part of such party promptly to pay an amount equal to interest at the rate per annum equal to 1% in excess of the Prime Rate compounded quarterly on the overdue payment. Prime Rate as used herein shall mean the rate per annum which Manufacturers Hanover Trust Company, New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable.

Notwithstanding anything to the contrary set forth hereinabove, no amount shall be payable as an indemnity hereunder to the Owner in respect of any Loss to the extent such Loss is the result of any of the following on the part of the Owner:

(i) a voluntary transfer or voluntary disposition (whether prior to, during or after the term of this Lease or the Sublease, but not including a transfer or

disposition as a result of a Casualty Occurrence) of any Units or of the interest of the Owner in any Units or the rentals under this Lease or the Sublease, or any transfer or disposition of any Units or of the interest of the Owner in any Units or the rentals under this Lease or the Sublease, whether voluntary or involuntary, which results from bankruptcy or other proceedings for the relief of debtors in which the Owner is the debtor, unless, in each case, such transfer or disposition is made (A) after an Event of Default, as defined in § 10 of this Lease, has occurred and is continuing; (B) in connection with any alteration, modification or addition to any Unit; or (C) with the consent of the Lessee;

(ii) the failure of the Owner to claim in a timely manner the Investment Credit, the ADR Deductions (including making all appropriate elections under the applicable Income Tax Regulations), the Interest Deductions or any foreign tax credit or to make a timely election, if permitted by the Code, to treat income and deductions with respect to the Equipment as derived from, or allocable to, sources within the United States, unless Special Tax Counsel of the Owner shall have given its opinion to the Owner that such claim is not allowable;

(iii) the failure of the Owner to have sufficient liability for Federal income tax against which to credit Investment Credit or foreign tax credit or sufficient income to benefit from the ADR Deductions or the Interest Deductions, as applicable;

(iv) any residual sharing, guarantee agreement or other voluntary act of the Owner (either individually or in concert with others) which is not included in the foregoing clauses and which is not required or contemplated by the Security Document, the Participation Agreement, the Trust Agreement, this Lease, the Sublease, the Sublease Assignment, the Sublease Assignment Consent, the Lease Assignment, the Consents, the Assignment, the Bond, the Assumption Agreement if entered into or any other document contemplated by any of the foregoing or entered into in connection therewith;

(v) a change in the form or type of organization or the taxable status of the Owner or any successor or transferee of the Owner;

(vi) a Casualty Occurrence with respect to a Unit, if the Owner-Trustee shall have received all amounts required to be paid in respect of such Casualty Occurrence under this Lease; or

(vii) any amendment to, or change in, the Code or the Income Tax Regulations which is effective after the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

If at the conclusion of an audit the Owner receives a preliminary or "30-day" letter from the Internal Revenue Service proposing an adjustment in any item claimed in accordance with the fifth paragraph of this § 23 on a tax return or refund claim of the Owner for which the Lessee would be required to indemnify the Owner pursuant to this § 23 and the amount of the indemnity which the Lessee would be required to pay would exceed $100,000 or, in the good faith of the Lessee, the adjustment would have a substantial and continuing precedental adverse effect on the Lessee or the Sublessee or the railroad industry and the Lessee so advises the Owner in writing, then, if requested by the Lessee in a timely written request, the Owner shall request an opinion from Special Tax Counsel of the Owner as to whether the basis in law and in fact in favor of allowance of the item proposed to be adjusted outweighs the basis in law and in fact to the contrary. If the opinion is to that effect and if the Lessee promptly requests the Owner to do so, the Owner shall contest the proposed adjustment; provided, however, that Special Tax Counsel of the Owner shall determine the nature of all action to be taken to contest such proposed adjustment including (A) whether any action to contest such proposed adjustment shall initially be by way of judicial or administrative proceedings, or both, (B) whether any such proposed adjustment shall be contested by resisting payment thereof or by paying the same and seeking a refund thereof, and (C) if the Owner shall undertake judicial action with respect to such proposed adjustment, the court or other judicial body before which such action shall be commenced. The Owner shall have full control over any contest pursuant to this paragraph and shall not be obligated to appeal an adverse determination by any court if the Owner shall have obtained an opinion from its Special Tax Counsel that the basis in law and in fact in favor of a favorable outcome in the event such determination is appealed outweighs the basis in law and in fact to the contrary. At any time, whether before or after commencing to take the

action set forth in this paragraph, the Owner may decline to take such action by notifying the Lessee in writing that the Lessee is relieved of its obligation to indemnify the Owner with respect to the adjustment proposed by the Internal Revenue Service or such portion thereof as may be specified in such notice.

The Owner shall not be required to take any action pursuant to the preceding paragraph unless and until the Lessee shall have agreed to indemnify the Owner in a manner reasonably satisfactory to the Owner for any liability or loss which the Owner may incur as a result of contesting the validity of any proposed adjustment and shall have agreed to pay to the Owner on demand all costs and expenses which the Owner may incur in connection with contesting such proposed adjustment (including reasonable fees and disbursements of counsel selected by the Owner). If the Owner determines to contest any adjustment by paying the additional tax and suing for a refund, the Lessee shall have paid to the Owner an amount equal to the sum on an after-tax basis of any tax, interest, penalties and additions to tax which are required to be paid. Upon receipt by the Owner of a refund of any amounts paid by it based on the adjustment in respect of which amounts it shall have been paid an equivalent amount by the Lessee, the Owner shall pay to the Lessee the amount of such refund together with any interest received by it on such amount, and if such refund is not taxable income to the Owner, and if payment under this or the preceding paragraph to the Lessee is deductible by the Owner for Federal income tax purposes, then the Owner shall also pay to the Lessee the amount by which the Owner's taxes are reduced as the result of such deduction; provided, however, that in no event shall the total amount paid to the Lessee pursuant to this or the preceding paragraph with respect to a particular refund exceed the amount paid by the Lessee to the Owner in connection with the payments made pursuant to the immediately preceding sentence to which such refund relates.

For purposes of this § 23, the term "Owner" shall include any affiliated group, within the meaning of Section 1504 of the Code, of which the Owner is a member if consolidated returns are filed for such affiliated group for Federal income tax purposes.

If the Owner is required by the Internal Revenue Service to include in its gross income an amount in respect of any improvement and/or addition to such Unit of Equipment

made by the Lessee, title to which vests in the Owner or the Owner-Trustee (which amounts are hereinafter called Capital Expenditures), then the Lessee shall pay directly to the Owner, as an indemnity, in immediately available funds, such amount or amounts which, after deduction of all taxes required to be paid by the Owner in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority of the United States, shall be equal to the sum of the aggregate additional Federal, state or local income taxes payable by the Owner from time to time as a result of such Capital Expenditure plus the amount of any interest, penalties or additions to tax payable as a result of any such Capital Expenditure (less any Federal, state or local tax benefits resulting from payment of any amounts reimbursed hereunder). If as a result of any such Capital Expenditure the aggregate Federal, state or local income taxes paid by the Owner for any taxable year shall be less than the amount of such taxes which would have been payable by the Owner had no such Capital Expenditure been made, then the Owner shall pay the Lessee the amount of such savings in taxes plus any additional tax benefits realized by the Owner as a result of such payment; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Owner pursuant to this paragraph in respect of any Capital Expenditures less (y) the amount of all prior payments by the Owner to the Lessee hereunder, and the amount by which such payment would exceed such amount shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Owner pursuant to the first sentence of this paragraph. The amount payable to the Owner pursuant to this paragraph shall be paid within 30 days after receipt of the written demand therefor from the Owner (but not prior to payment by the Owner of the additional Federal, state or local income tax, as the case may be, which becomes due as a result of the said inclusion) accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Lessee from the Owner pursuant to this paragraph shall be paid within 30 days after the Owner realizes any such savings in its income taxes or additional tax benefits, as the case may be. The Owner agrees to contest the inclusion in its gross income of any amount with respect to a Capital Expenditure to the extent, and under the circumstances, set forth in the ninth and tenth paragraphs of this § 23.

The Lessee agrees to give the Owner, within 30 days after request therefor, written notice describing in reasonable detail Capital Expenditures made and specifying the cost thereof with respect to each Unit of Equipment if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner.

In the event that any indemnity payments are required to be made by the Lessee, or in the event the amount of rentals under this Lease are adjusted, pursuant to any paragraph of this § 23, the damages and amounts set forth in § 10 of this Lease and the applicable Casualty Value percentages set forth in Schedule B to this Lease shall be appropriately adjusted by the Owner (but in no event shall the applicable Casualty Values be reduced below the corresponding Fair Values as defined in the Security Document). The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions, including, without limitation, tax rates, as were utilized by the Owner in originally evaluating this transaction except for the assumption that has resulted in such adjustment. In connection therewith, the Owner shall provide the Lessee with a certificate of an officer of the Owner setting forth in reasonable detail the figures and methods used in making such calculations. In the case of any such adjustments in the damages and amounts set forth in § 10 of this Lease and the applicable Casualty Value percentages set forth in Schedule B to this Lease, if any payment of such damages, amounts or Casualty Values shall have been made prior to the adjustments made pursuant to this paragraph, (a) the Lessee shall pay to the Owner the excess amount which would have been payable on the due date of such payment by reason of the adjustments pursuant to this paragraph or (b) the Owner shall pay to the Lessee the amount of such payments in excess of the amount of such payments which would have been payable by reason of the adjustments pursuant to this paragraph. The Lessee's and the Owner's agreements to pay any sums which may become payable pursuant to this § 23 shall survive the expiration or other termination of this Lease.

The Lessee shall have the right, upon demand, to have Thayer, Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, or another independent party selected by the Lessee and approved by the Owner, which approval shall not be unreasonably withheld, review any calculations made by the Owner pursuant to this § 23 to

determine the consistency of the methods and the assumptions used in such calculations with those used by the Owner in originally evaluating this transaction and the accuracy of such computations based on such methods and assumptions.

The liability of the Lessee to make indemnification payments pursuant to this § 23 shall, notwithstanding any expiration or termination of this Lease, continue to exist until such indemnity payments are made by the Lessee. All indemnity payments under this § 23 shall be made directly to the Owner.

§ 24. Severability; Effect and Modification of Lease; Third Party Beneficiaries. 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.

This Lease exclusively and completely states the rights of the Owner-Trustee and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement. 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 Owner-Trustee and the Lessee.

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Owner, the Builder, the Vendor, the Investors and the permitted successors and assigns of a party, each of which shall be deemed to be a third-party beneficiary hereof) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

§ 25. 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 Vendor shall be deemed to be the original counterpart. 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.

§ 26. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Ohio; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 27. Agreement for Benefit of the Owner. All rights of the Owner-Trustee hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 10 and 23, and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Owner and any of the Owner's successors and assigns under the Trust Agreement.

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

GAMS TRANSPORTATION, INC.,

by

[CORPORATE SEAL]

Attest:

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by

[CORPORATE SEAL]

Authorized Officer

Attest:

Authorized Officer

STATE OF CALIFORNIA,)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is of GAMS TRANSPORTATION, INC., 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.

_____
Notary Public

[Notarial Seal]

My Commission Expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, 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 By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

_____
Notary Public

[Notarial Seal]

My Commission Expires

Schedule A

Type	Builder's Specification	Builder's Plant	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Road Numbers (Inclusive)	Estimated Time of Delivery
50-foot, 6-inch 70-ton, Class XF boxcar	No. 1042, dated March 29, 1979, as amended	Bessemer, Alabama	308	$40,900	$12,597,200	ROCK 302042 through ROCK 302249 W&OV 1 through W&OV 100	July-August 1979

Place of delivery: Bessemer, Alabama

SCHEDULE B to LEASE

Casualty Values*

Item I:

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**		Percentage of Purchase Price
4/1980	1	85.23	1/1990	40	67.11
7/1980	2	85.76	4/1990	41	65.98
10/1980	3	86.20	7/1990	42	64.82
1/1981	4	86.49	10/1990	43	63.65
4/1981	5	86.79	1/1991	44	62.45
7/1981	6	87.07	4/1991	45	61.25
10/1981	7	87.28	7/1991	46	60.01
1/1982	8	87.44	10/1991	47	58.75
4/1982	9	87.51	1/1992	48	57.48
7/1982	10	87.56	4/1992	49	56.21
10/1982	11	87.42	7/1992	50	54.90
1/1983	12	87.35	10/1992	51	53.59
4/1983	13	87.23	1/1993	52	52.26
7/1983	14	87.08	4/1993	53	50.93
10/1983	15	86.83	7/1993	54	49.58
1/1984	16	86.51	10/1993	55	48.23
4/1984	17	86.24	1/1994	56	46.87
7/1984	18	85.90	4/1994	57	45.50
10/1984	19	85.48	7/1994	58	44.14
1/1985	20	84.98	10/1994	59	42.76
4/1985	21	84.47	1/1995	60	41.39
7/1985	22	83.93	4/1995	61	40.01
10/1985	23	83.30	7/1995	62	38.63
1/1986	24	82.61	10/1995	63	37.25
4/1986	25	81.90	1/1996	64	35.87
7/1986	26	81.27	4/1996	65	34.49
10/1986	27	80.49	7/1996	66	33.11
1/1987	28	79.15	10/1996	67	31.73
4/1987	29	78.06	1/1997	68	30.35
7/1987	30	77.21	4/1997	69	28.98
10/1987	31	76.32	7/1997	70	28.62
1/1988	32	75.40	10/1997	71	28.25
4/1988	33	74.45	1/1998	72	27.87
7/1988	34	73.48	4/1998	73	27.48
10/1988	35	72.48	7/1998	74	27.09
1/1989	36	71.45	10/1998	75	26.69
4/1989	37	70.40	1/1999	76	26.27
7/1989	38	69.32	4/1999	77	25.85
10/1989	39	68.23	7/1999	78	25.42

* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

Casualty Values*

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**	Percentage of Purchase Price
10/1999	79	24.98		
1/2000	80	24.53		
4/2000	81	24.07		
7/2000	82	23.60		
10/2000	83	23.12		
1/2001	84	22.63		
4/2001	85	22.13		
7/2001	86	21.61		
10/2001	87	21.09		
1/2002	88	20.55		
4/2002 and thereafter	89	20.00		

	Anniversary of Delivery and Acceptance	Percentage of Purchase Price
Item II:	Third	19.64444
	Fifth	13.09630
	Seventh	6.54815

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* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

Appendix A to
Lease

SUBLEASE OF RAILROAD EQUIPMENT

Dated as of July 20, 1979

between

WILLIAM M. GIBBONS,
TRUSTEE OF THE PROPERTY OF
CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY,

as Sublessee

and

GAMS TRANSPORTATION, INC.,

as Sublessor

TABLE OF CONTENTS

		Page
PREAMBLE	.....	SL-1
§ 1.	Net Lease	SL-2
§ 2.	Delivery and Acceptance of Units	SL-3
§ 3.	Rentals	SL-4
§ 4.	Term of Sublease	SL-5
§ 5.	Identification Marks	SL-7
§ 6.	Taxes	SL-8
§ 7.	Payment for Casualty Occurrences; Insurance	SL-12
§ 8.	Reports	SL-15
§ 9.	Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification	SL-16
§ 10.	Default	SL-22
§ 11.	Return of Units Upon Default	SL-28
§ 12.	Assignment; Possession and Use	SL-29
§ 13.	Renewal Options	SL-32
§ 14.	Return of Units Upon Expiration of Term	SL-33
§ 15.	Recording	SL-36
§ 16.	Obligations of Owner-Trustee Under Security Document; Additional Rentals	SL-36
§ 17.	Sublessor's Right To Perform for the Sublessee	SL-37

		Page
§ 18.	Interest on Overdue Rentals	SL-37
§ 19.	Notices	SL-37
§ 20.	Federal Income Taxes	SL-38
§ 21.	Severability; Effect and Modification of Sublease; Third Party Beneficiaries	SL-48
§ 22.	Other Obligations	SL-48
§ 23.	Execution	SL-50
§ 24.	Law Governing	SL-50
TESTIMONIUM		SL-50
SIGNATURES		SL-50
ACKNOWLEDGMENTS		SL-51
SCHEDULE A		SL-52
SCHEDULE B		SL-53

SUBLEASE OF RAILROAD EQUIPMENT dated as of July 20, 1979, between WILLIAM M. GIBBONS, TRUSTEE OF THE PROPERTY OF CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY (such company being hereinafter called the Debtor and such Trustee being hereinafter called the Sublessee) and GAMS TRANSPORTATION, INC., an Ohio corporation (hereinafter called the Sublessor).

On March 17, 1975, the Debtor filed a petition for reorganization under Section 77 of the Bankruptcy Act in the United States District Court for the Northern District of Illinois (hereinafter called the Court) and such petition was duly approved as properly filed by order entered on such date by such Court (the proceedings with respect thereto being hereinafter called the Reorganization Proceedings) and William M. Gibbons was duly qualified as Trustee of the property of the Debtor on April 4, 1975.

First Security State Bank, acting not in its individual capacity but solely as Trustee (hereinafter called the Owner-Trustee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement), with General Electric Credit Corporation (hereinafter called the Owner) has entered or will enter into a conditional sale agreement (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), pursuant to which the Owner-Trustee has agreed to purchase and take delivery of the railroad equipment described in Schedule A hereto (hereinafter called the Equipment).

The Builder is assigning its interests in the Security Document pursuant to an Agreement and Assignment, dated as of the date hereof (hereinafter called the Assignment), to First Security Bank of Utah, N.A., acting as Agent (hereinafter together with its successors and assigns called the Vendor), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Sublessor, the Sublessee, the Owner-Trustee, the Owner and the party or parties named in Schedule A thereto (hereinafter called the Investors).

The Sublessor will lease from the Owner-Trustee units of the Equipment which are delivered and accepted and settled for under the Security Document (hereinafter called the Units), pursuant to a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), and the Sublessor desires to sublease the Units to the Sublessee at the rentals and for the term and upon the conditions hereinafter provided.

The Sublessor intends to assign certain of its rights under this Sublease to the Owner-Trustee pursuant to an Assignment of Sublease and Agreement, dated as of the date hereof (hereinafter called the Sublease Assignment), and the Sublessee will consent to the Sublease Assignment pursuant to a Sublessee's Consent and Agreement (hereinafter called the Sublessee's Consent).

The Owner-Trustee intends to assign certain of its rights under the Sublease and the Sublease Assignment to the Vendor pursuant to an Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement dated as of the date hereof (hereinafter called the Sublease Reassignment), and the Sublessee will consent to such Sublease Reassignment pursuant to a Consent and Agreement (such Consent, together with the Sublessee's Consent, being hereinafter collectively called the Consents).

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

§ 1. Net Lease. This Sublease is a net lease. The Sublessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein provided, the Sublessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions, counterclaims or setoffs due or alleged to be due by reason of any past, present or future claims of the Sublessee against the Sublessor, the Owner-Trustee or the Owner, whether under this Sublease, under the Security Document, under the Lease or otherwise, including the Sublessee's rights by subrogation hereunder or thereunder against the

Builder or the Owner-Trustee or the Sublessor or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Sublease terminate, or the respective obligations of the Sublessor or the Sublessee 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 Sublessee'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 or approval of this Sublease, any present or future insolvency of or bankruptcy, reorganization or similar proceeding against the Sublessee, 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 Sublessee 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 Sublease. To the extent permitted by applicable law, the Sublessee 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 sublease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Sublessee hereunder shall be final and the Sublessee shall not seek to recover all or any part of such payment from the Sublessor, the Owner-Trustee, the Owner or the Vendor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Sublessor hereby appoints the Sublessee its agent for inspection and acceptance of the Units pursuant to the Security Document; provided, however, that such acceptance shall be in accordance with the provisions of Article 3 of the Security Document. The Sublessor will cause each Unit to be delivered to the Sublessee at the point or points within the United States of America at which such Unit is delivered to the Sublessor under the Lease. Upon delivery of such Unit, the Sublessee will cause an employee or agent of the Sublessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such unit on behalf of the Owner-Trustee under the Security Document, the Sublessor under the Lease and itself hereunder and to execute and deliver to the

Owner-Trustee a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Document, stating that such Unit has been inspected and accepted on behalf of the Sublessee, the Sublessor and the Owner-Trustee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Sublessee and shall be subject thereafter to all the terms and conditions of this Sublease. The delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the Security Document pursuant to the second paragraph of Article 3 or the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such unit to this Sublease. The Sublessee hereby represents and warrants to the Sublessor and the Owner-Trustee, as a third party beneficiary hereof, that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Sublessee as agent for the Sublessor hereunder.

§ 3. Rentals. With respect to each Unit subject to this Sublease, the Sublessee will pay to the Sublessor as (i) basic rentals 60 consecutive equal quarterly payments, payable on January 15, April 15, July 15 and October 15 in each year, commencing July 15, 1980, and (ii) interim rental two payments on January 15, 1980, and April 15, 1980. The 60 quarterly rental payments shall each be in an amount equal to 2.6651% of the Purchase Price (as defined in the Security Document) of each Unit subject to this Sublease on the date of such payment. The interim rental shall be in an amount equal to the product of the Purchase Price of each Unit subject to this Sublease on the date of payment multiplied by .029503% for each day elapsed from and including the Closing Date (as defined in the Security Document) for such Unit to, but excluding April 15, 1980, and shall be payable to the extent accrued on each interim rental payment date.

In addition to the foregoing basic rentals, the Sublessee will pay to the Sublessor the following additional rentals: (i) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (a) of the last paragraph of Paragraph 9 of the Participation Agreement and (ii) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (b) of the last para-

graph of Paragraph 9 of the Participation Agreement, in each case on such date as will enable the Owner-Trustee to make such payment.

If any of the quarterly rental payment dates referred to above is not a Business Day (as such term is defined in the Security Document) the quarterly rental payment otherwise payable on such date shall then be payable on the next succeeding Business Day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next succeeding Business Day.

The Sublessor irrevocably instructs the Sublessee to make, and the Sublessee agrees to make, all the payments (other than payments under § 6 and § 20 hereof) due the Sublessor provided for in this Sublease including, but not limited to, all payments provided for in this § 3 and in § 7 hereof, (i) for so long as the Security Document shall remain in effect, to the Vendor, for the account of the Owner-Trustee, in immediately available funds at or prior to 11 a.m. (Salt Lake City time) to the office of the Vendor (at 79 South Main Street, Suite 310, Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department) on the date due, with instructions to the Vendor to apply such payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement, and (ii) if the Security Document shall no longer be in effect, to the Owner-Trustee or as directed by the Owner-Trustee in immediately available funds at such place as the Owner-Trustee shall specify in writing.

§ 4. Term of Sublease. The term of this Sublease 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 April 15, 1995. Except for obligations of the Sublessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Sublessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9, 11, 14, 19 and 20 hereof) shall survive the expiration of the term of this Sublease.

Anything in this Sublease to the contrary notwithstanding, the term of this Sublease shall terminate on the date (i) the Court finds that the Sublessee is unable to

transport the traffic offered the Sublessee because the Sublessee's cash position or other facts make the Sublessee's continuing operation of the Debtor impossible and orders the Sublessee to discontinue service and/or liquidate the assets of the Debtor or (ii) this Sublease is disaffirmed or rejected pursuant to a plan of reorganization confirmed in the Reorganization Proceedings and in such event the obligation to pay rental referred to in the first paragraph of § 3 accruing subsequent to the date that the Sublessee returns the Equipment to the Sublessor in the manner contemplated by § 14 hereof shall terminate and the Sublessor shall have no claim against the Sublessee, the Debtor or the Successor (as defined in § 10 hereof) for such unaccrued rental.

The obligation of the Sublessee to pay any and all sums:

(x) due and owing under this Sublease, including without limitation accrued rental referred to in the first paragraph of § 3, prior to the date of return of the Equipment to the Sublessor as herein provided for; and

(y) which may become due and owing subsequent to the date of return of the Equipment to the Sublessor as a result of acts or omissions of the Sublessee occurring prior to such date,

shall continue in full force and effect notwithstanding termination of the Sublease and the immediately preceding paragraph.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Sublessee under this Sublease and in and to the Units are subject to the rights of the Vendor under the Security Document and the Owner-Trustee under the Lease. If an Event of Default should occur under § 10 of the Lease, upon notice by the Owner-Trustee or the Vendor to the Sublessor and Sublessee, the participation of the Sublessor under this Sublease shall, without the consent of the Sublessor or the Sublessee and immediately and automatically and without any further action, be terminated, and the Owner-Trustee without its further consent and immediately and automatically and without any further action shall become the Sublessor under this Sublease;

and the Sublessor hereby agrees and acknowledges that in such event it shall no longer be a party to this Sublease and that it would no longer have any claim whatsoever to any rental payments paid to the Vendor pursuant to § 3 hereof subsequent to such event. If an event of default should occur under the Security Document as provided in § 10(E) hereof, the Vendor may terminate this Sublease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Sublessee will cause 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 Sublease 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 WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Owner-Trustee's title to and the Vendor's security interest in such Unit and the rights of the Sublessor under this Sublease, of the Owner-Trustee under the Lease and of the Vendor under the Security Document. The Sublessee will not place or permit any such Unit to be placed 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 or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Sublessee will not change or permit to be changed 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 Vendor, the Owner-Trustee and the Sublessor and duly filed, recorded and deposited by the Sublessee in all public offices where this Sublease, the Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Sublessee shall have furnished the Vendor, the Owner-Trustee and the Sublessor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's, the Owner-Trustee's and the Sublessor's interests in such Units and no filing, recording, deposit or giving of

notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor, the Owner-Trustee and the Sublessor in such Units.

Except as above provided, the Sublessee 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; provided, however, that the Sublessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Sublessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of its rights to use the Equipment under this Sublease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Sublessee therein.

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Sublessee agrees to pay, and on written demand to indemnify and hold the Sublessor, the Owner-Trustee, the Owner, the Builder, the Vendor, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under the Security Document and the Participation Agreement harmless from all taxes (income, gross receipts, franchise, sales, use, property (real or personal, tangible or intangible), stamp and minimum (imposed under section 56 of the Internal Revenue Code of 1954, as amended) taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Sublessor, the Owner-Trustee, the Owner, the Vendor, the Builder, the Investors, the Sublessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under the Security Document and the Participation Agreement, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; this Sublease, the Lease, the Sublease Assignment, the Sublessee's Consent, the Sublease Reassignment, the Consents, the Trust

Agreement, the Participation Agreement (including the certificates of interest and the issuance thereof to the Investors pursuant thereto), the Security Document, the Bond (as defined in the Lease), the Assumption Agreement (as so defined) or the Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Security Document and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States or of any state or local government or governmental subdivision thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Sublessor, the Owner-Trustee (in its individual capacity), the Owner, the Investors, the Builder or the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Sublease or the Lease, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Sublease or the Lease shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Owner or any transfer or disposition by or on behalf of the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Sublease or the Lease, without the consent of the Sublessee, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence or an Event of Default shall have occurred and be continuing; (iii) any Taxes imposed on or measured by any trustee or agency fees received by the Owner-Trustee or the Vendor; and (iv) Taxes which are imposed on or measured solely by the net income of the Owner-Trustee or the Vendor if and to the extent that such Taxes are in substitution for

or reduce the Taxes payable by any other person which the Sublessee has not agreed to pay or indemnify against pursuant to this § 6; provided, however, that the Sublessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the fourth paragraph of this § 6. The Sublessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Sublessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Sublessee is a member) under the laws of the United States or of any state or local government or governmental subdivision thereof, or of any foreign country or subdivision or authority thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Sublessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

The amount which the Sublessee shall be required to pay with respect to any Taxes indemnified against pursuant to this § 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

In the event that the Owner-Trustee shall become obligated to make any payment to the Builder, the Investors, the Vendor or the estate held by the Vendor under the Security Document and the Participation Agreement pursuant to Article 6 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, or the Sublessor shall become obligated to make any payment to the Vendor, the Builder, the Investors, or the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under the Participation Agreement and the Security Document pursuant to any correlative provision of the Lease not covered by the first paragraph of this § 6, the Sublessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Owner-Trustee or the Owner or the Sublessor as will enable the Owner-Trustee or the Owner or the Sublessor to fulfill completely its obligations pursuant to said provisions. The Sublessor agrees not to enter into any amendment of the Lease which would adversely affect the interest of the Sublessee under this Sublease without the written consent of the Sublessee.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Sublessee. If reasonably requested by the Sublessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Sublessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Sublessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party which consent shall not be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Sublessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Sublessee and the period of such payment, such indemnified party shall pay to the Sublessee the amount of such refund or interest net of expenses, but only if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing.

In case any report or return is required to be made with respect to any obligation of the Sublessee under this § 6 or arising out of this § 6, except obligations resulting from the second sentence of the first paragraph of this § 6, the Sublessee shall either make such report or return in such manner as will show the interests of the Owner-Trustee, the Vendor and the Sublessor in the Units, or shall promptly notify the Sublessor, the Owner-Trustee, the Owner and the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Sublessor, the Owner-Trustee, the Vendor and the Owner. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Sublessee.

All the obligations of the Sublessee under this § 6 shall survive and continue, notwithstanding payment in full of all amounts due under the Security Document or the termination of this Sublease or the Lease, but only with respect to periods included in the term of this Sublease. Payments due from the Sublessee under this § 6 shall be payable directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Sublessee shall not constitute a guarantee by the Sublessee of the payment of any installments of principal or interest payable under the Security Document, or a guarantee of the value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

The Sublessee shall furnish promptly, upon request, such information and data as are normally available to the Sublessee and which the Sublessor, the Owner-Trustee, the Vendor or the Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§ 7. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Sublessee for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Sublease (such occurrences being hereinafter called Casualty Occurrences), during the term of this Sublease, or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Sublessee shall promptly and fully notify (after the Sublessee has knowledge of such Casualty Occurrence) the Sublessor, the Owner-Trustee and the Vendor with respect thereto. On the rental payment date (not earlier than the first regular quarterly rental payment date) next succeeding the delivery of such notice (or, in the event such rental payment date will occur within 15 days after delivery of notice, on the following rental payment date, or, in the event the term of this Sublease has already expired or will expire within 15 days after delivery of such notice, on a date within 15 days of such delivery), the Sublessee shall pay or cause to be paid to the Sublessor 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 of such Unit as of such rental payment date (such ren-

tal payment date being hereinafter called the Calculation Date). Upon the making of such payment by the Sublessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Sublease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Sublessor shall be entitled to recover possession of such Unit.

If the date upon which the making of such payment by the Sublessee in respect of any Unit as required as aforesaid shall be after the term of this Sublease in respect of such Unit shall have expired, no rental for such Unit shall accrue after the end of such term but the Sublessee, in addition to paying the Casualty Value for such Unit shall pay interest thereon from the end of such term to the date of such payment at the greater of (i) the prime rate of interest which Manufacturers Hanover Trust Company charges on the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing and (ii) 10.75% per annum.

The Sublessor, as agent for the Owner-Trustee under the Lease, shall dispose of any such Unit suffering a Casualty Occurrence at the best price obtainable on an "as is, where is" basis. Provided that the Sublessee has previously paid the Casualty Value to the Sublessor and no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Sublessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and the Sublessor shall pay such proceeds to the Sublessee, and the excess shall be retained by the Sublessor. If such an Event of Default or event has occurred and is continuing, the Sublessor shall retain the proceeds of such sale for application in accordance with § 10 hereof.

The Casualty Value of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in § 20 hereof). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the

Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

In the event of the requisition for use of any Unit during the term of this Sublease or any renewal thereof, unless such requisition shall constitute a Casualty Occurrence, all of the Sublessee's obligations under this Sublease 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 at any time after the end of the term of this Sublease, the Sublessee shall be obligated to return such Unit to the Sublessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return rather than at the end of the term of this Sublease; but the Sublessee 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 Sublessor or the Sublessee from the requisitioning authority for the use of such Unit during the term of this Sublease shall be paid over to, or retained by, the Sublessee provided no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing; and all payments received by the Sublessor or the Sublessee from the requisitioning authority for the use of such Unit after the term of this Sublease, shall be paid over to, or retained by, the Sublessor.

Except as hereinabove in this § 7 provided, the Sublessee 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 Sublessee hereunder.

The Sublessee will, at all times prior to the return of the Equipment to the Sublessor in accordance with the terms of this Sublease (including the storage period provided under §§ 11 and 14), maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Units at the time subject hereto, 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 Sublessee on similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $10,000,000 (with a deductible of not greater than $1,000,000)

per occurrence. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee, the Surety, the Sublessor and the Sublessee as their respective interests may appear.

The Sublessee will, at all times prior to the return of the Equipment to the Sublessor in accordance with the terms of this Sublease, at its own expense, cause to be carried and maintained public liability insurance, naming the Owner, the Owner-Trustee, the Surety, the Sublessor and the Vendor as additional named insureds as their interests may appear, 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 Sublessee in respect of similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $29,000,000 (with a deductible of not greater than $2,000,000) per occurrence. Any policy of insurance carried in accordance with this paragraph shall not provide for any payment of premiums or commissions by the Owner, the Owner-Trustee or the Vendor.

The Sublessee shall obtain from each insurer under the two paragraphs immediately above an agreement, by endorsement or separate instrument, that such insurer will give the Sublessor, the Surety, the Owner-Trustee, the Owner and the Vendor 30 days' written notice before such insurer's policy shall be materially altered or canceled or not renewed. In January of each year, the Sublessee shall deliver to the Surety, the Owner-Trustee, the Owner, the Sublessor and the Vendor a certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1980, the Sublessee will furnish to the Sublessor, the Owner-Trustee, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then subleased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Sublease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Sublessee are then undergoing repairs (other than run-

ning repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Sublessor, the Owner-Trustee or the Vendor may reasonably request prepared by an independent qualified engineer who may be the chief mechanical officer of the Sublessee or any other employee of the Sublessee and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof, the Lease and the Security Document have been preserved or replaced. The Sublessor and the Owner-Trustee shall have the right by their respective agents to inspect the Units and the Sublessee's records with respect thereto at such reasonable times as the Sublessor or the Owner-Trustee may request during the continuance of this Sublease.

The Sublessee agrees at its expense to prepare and deliver to the Sublessor and the Owner-Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Sublessor and the Owner-Trustee) any and all reports (other than income tax returns) to be filed by the Sublessor and the Owner-Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Owner-Trustee or the Vendor of the Units or the leasing thereof to the Sublessor or the subleasing thereof to the Sublessee.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE SUBLESSOR DOES NOT MAKE ANY, HAS NOT MADE ANY AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE SUBLESSEE HEREUNDER, AND THE SUBLESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF 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 OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE SUBLESSEE OR OTHERWISE), it being agreed that all such risks, as between the Sublessor and the Sublessee, are to be borne by the Sublessee; but the Sublessor hereby irrevocably appoints and constitutes the Sublessee its agent and attorney-in-fact during the term of this Sublease to assert and enforce from time to time, in the

name of and for the account of the Owner-Trustee, the Sublessor and/or the Sublessee, as their interests may appear, at the Sublessee's sole cost and expense, whatever claims and rights the Owner-Trustee or the Sublessor may have against the Builder. The Sublessor shall have no responsibility or liability to the Sublessee 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 circumstance 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 Sublessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Sublessee, on the one hand, and the Sublessor and the Owner-Trustee, on the other hand, that the Units described therein are in all the foregoing respects satisfactory to the Sublessee; and the Sublessee will not assert any claim of any nature whatsoever against the Sublessor, the Owner-Trustee or the Owner based on any of the foregoing matters.

The Sublessee agrees, for the benefit of the Sublessor, the Owner-Trustee, the Owner and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Sublessee will fully conform therewith at its own expense; provided, however, that the Sublessee may upon written notice to the Sublessor, the Owner-Trustee and the Vendor, 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 Sublessor, the Owner-Trustee or the Vendor, adversely affect the property or rights of the Sublessor, the Owner-Trustee or

the Vendor, respectively, under this Sublease or under the Lease or under the Security Document.

The Sublessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an Addition thereto as hereinbelow provided) which is subject to this Sublease in good operating order, repair and condition, ordinary wear and tear excepted, and, in any event, in the condition that will permit such Unit to qualify as a box car of "XF Class", as defined, as of July 20, 1979, by the Association of American Railroads; provided, however, that the Sublessee shall not be required to keep any Unit in actual "XF" service.

The Sublessee and its affiliates, at their own cost and expense, may from time to time make such alterations, modifications and additions (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the United States Department of Transportation, the Interstate Commerce Commission or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit) (hereinafter collectively called Additions) to the Units as the Sublessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Sublease; provided, however, that no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such addition not been made, assuming the Unit was then in the condition required to be maintained by the terms of this Sublease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Owner-Trustee and be subject to a valid first lien and prior perfected security interest under the Security Document in the following cases: (i) such Part

is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for any such original Part, (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the terms of the second or third paragraph of this § 9 or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Sublessee. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Sublessee shall pay, and shall protect, indemnify and hold the Sublessor, the Owner-Trustee, the Owner, the Investors and the Vendor (for purposes of this paragraph only, as defined in the Security Document), and their respective successors, assigns, principals, agents and servants (hereinafter called Indemnified Persons), as third party beneficiaries hereof, 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 reasonable attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Sublease 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, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Sublessee; (iii) any claim for patent, trademark or copyright infringe-

ment; (iv) any claims based on strict liability in tort or imposed by statute; (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 Sublessee, the Owner-Trustee, the Sublessor or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder) or alleged violation, of any provision of this Sublease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Owner-Trustee's obligations under the Sublease Reassignment, the Security Document or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Owner-Trustee, or any claim arising out of any of the Sublessor's obligations under the Sublease Assignment, the Lease or the Participation Agreement, except to the extent such claim arises from an act or omission of the Sublessor; or (viii) any claim arising out of the Vendor's holding a security interest under the Security Document or the Sublease Reassignment; excluding, however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant under the Security Document by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A to the Security Document. All payments hereunder shall be made directly to the Indemnified Person. The Sublessee 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 Sublessee 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 Sublessee may and, upon such Indemnified Person's reasonable request, will at the Sublessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel

selected by the Sublessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Sublessee to do so, the Sublessee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Sublessee is required to make any payment under this § 9, the Sublessee shall pay or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the discretion of the Indemnified Person), shall be equal to the amount of such payment. The Sublessee and the Sublessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any indemnities as contained in this § 9 by the Sublessee, and provided that no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Sublessee 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 Sublessee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Sublessee pursuant to this § 9 shall be paid over to the Sublessee to the extent necessary to reimburse the Sublessee for indemnification payments previously made in respect of such matter.

The Sublessee further agrees to indemnify, protect and hold harmless the Sublessor and the Owner-Trustee, the Investors, the Vendor and the Owner, as third party beneficiaries hereof, from and against any and all liabilities, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Sublessor or the Owner-Trustee, the Investors, the Vendor or the Owner because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Sublessee and not manufactured by the Builder or of any design, system, pro-

cess, formula or combination specified by the Sublessee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Sublessee will give notice to the Builder of any claim known to the Sublessee from which liability may be charged against the Builder under the Security Document.

In the event that the Owner-Trustee shall become obligated to make any payment to the Investors or the Vendor (for purposes of this paragraph only, as defined in the Security Document) pursuant to Article 13 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, or the Sublessor shall become obligated to make any payment to the Vendor, the Investors or the estate held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Participation Agreement and the Security Document pursuant to any correlative provision of the Lease not covered by the foregoing provisions of this § 9, the Sublessee shall pay such additional amounts to the Owner-Trustee or the Owner or the Sublessor as will enable the Owner-Trustee or the Owner or the Sublessor to fulfill completely its obligations pursuant to said provisions; provided, however, that no such payment shall be required with respect to payments arising as a result of the gross negligence or wilful misconduct of the Owner-Trustee, the Sublessor or the Owner.

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

The foregoing indemnities by the Sublessee shall not constitute a guarantee by the Sublessee of any payment or other obligation, including without limitation the payment of any installments of principal or interest, under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term thereof as such term may or may not be renewed.

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

(A) payment of any part of the rental provided in § 3 or § 13 hereof or payment in respect of any Casualty Occurrence pursuant to § 7 hereof shall not be made by or on behalf of the Sublessee, and such failure to make payment shall continue for 10 business days after such payment is due; or

(B) (x) any representation or warranty of the Sublessee contained in the Participation Agreement or herein (except the representations and warranties contained in § 20 hereof) shall have been incorrect in any material respect as of the date when made, unless (i) such misrepresentation or the breach of such warranty has been cured, if curable, within 30 days after written notice thereof to the Sublessee from the Sublessor, the Owner-Trustee, the Owner or the Vendor, or (ii) there is no material adverse effect on the rights of the Sublessor, the Owner-Trustee or the Vendor hereunder resulting from such misrepresentation or breach or (iii) any damages resulting from such misrepresentation or breach shall have been paid within 30 days after demand therefore, to the satisfaction of the Sublessor, the Owner-Trustee, the Owner and the Vendor, or (y) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Sublessee contained herein or in the Participation Agreement, and such default shall continue for 30 days after written notice from the Sublessor, the Owner-Trustee or the Vendor to the Sublessee specifying the default and demanding that the same be remedied; or

(C) a decree or order is entered in the Reorganization Proceedings preventing or disabling the Sublessee from performing any of its obligations under this Sublease other than a decree, order, disaffirmance or rejection as provided for in the second paragraph of § 4 hereof; or

(D) if the obligations of the Trustee or his successor or successors hereunder are assumed by a corporation or by the Debtor's successor pursuant to a

plan of reorganization for the Debtor approved in the Reorganization Proceedings (such corporation or successor being hereinafter called the Successor) and either

(i) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as such Section 77 may hereafter be amended, or under any other provision of Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Successor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the assumed obligations of the Successor under this Sublease and under the Participation Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by or on behalf of a trustee or trustees or other similar officer appointed (whether or not subject to confirmation or ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or officer, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(ii) any proceedings shall be commenced by or against the Successor for any relief which includes, or might result in, any modification of the assumed obligations of the Successor under this Sublease or under the Participation Agreement under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustments of the assumed obligations of the Successor hereunder or under the Participation Agreement), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the assumed obligations of the Successor under this Sublease and under the Participation Agreement shall not have been and shall not continue to have been duly assumed in

writing, pursuant to a court order or decree, by or on behalf of a trustee or trustees or receiver or receivers or other similar officer appointed (whether or not subject to confirmation or ratification) for the Successor or for the property of the Successor 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 or officers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(E) an event of default set forth in subparagraph (e) with respect to Great American Insurance Company, or in subparagraph (g), of Article 15 of the Security Document shall have occurred or, any other event of default set forth in such Article 15 shall have occurred and either (i) such event results from any default by the Sublessee in performing any of its obligations hereunder or under the Participation Agreement or (ii) the Payments (as defined in the Sublease Reassignment) are not for any reason being applied by the Owner-Trustee as provided in Paragraph 1 of the Sublease Reassignment;

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

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

(b) by notice in writing to the Sublessee terminate this Sublease, whereupon all rights of the Sublessee to the use of the Units shall absolutely cease and terminate as though this Sublease had never been made, but the Sublessee shall remain liable as herein provided; and thereupon the Sublessor may by its agents enter upon the premises of the Sublessee or other premises where any of the Units may be and take possession of all or any such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Sublessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Sublessee for such action or inaction or for any proceeds arising therefrom; but the

Sublessor shall, nevertheless, have a right to recover from the Sublessee any and all amounts which under the terms of this Sublease 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 Sublessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Sublessor, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) 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 Sublease as to such Unit over (2) the then present value of the rentals which the Sublessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 8% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Sublease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Sublessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Sublease other than for the payment of the rental; or (y) an amount 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 amount the Sublessor reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Sublessor shall have sold or leased any Unit, the Sublessor, in lieu of collecting any amounts payable to the Sublessor by the Sublessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Sublessee pay the Sublessor and the Sublessee shall pay to the Sublessor on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such a sale, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding

the date of termination, over the net proceeds of such sale and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Sublease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Sublessor reasonably estimates to be obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Sublease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 8% per annum discount, compounded, in the case of rental which is estimated under clause (II) of this sentence, quarter-annually from the respective dates upon which rentals would have been payable hereunder had this Sublease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

In addition, the Sublessee 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 Sublessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Sublease provided in favor of the Sublessor 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 Sublessee hereby waives any 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 Sublessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make such rental payments regardless of any offset or claim which may be asserted by the Sublessee or on its behalf.

The failure of the Sublessor to exercise the rights granted it hereunder upon the occurrence of any of the con-

tingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Sublessor.

The Sublessee also agrees to furnish the Sublessor, the Owner-Trustee, the Owner and the Vendor, promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default, or which upon 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 § 10, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Sublessee in this Sublease contained, any corporate official of the Sublessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter and the requirements of this Sublease with respect thereto.

§ 11. Return of Units Upon Default. If this Sublease shall terminate pursuant to § 10 hereof, the Sublessee shall forthwith deliver possession of the Units to the Sublessor and shall give prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Sublessor pursuant to this § 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Sublessee, reasonable wear and tear and modifications, if any, permitted by this Sublease excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any Unit or Units to the Sublessor as above required, the Sublessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Sublessor and there assembled,

(b) furnish and arrange for the Sublessor to store such Units on any lines of railroad or premises approved by the Sublessor until such Units have been sold, leased

or otherwise disposed of by the Sublessor, and

(c) cause the Units to be moved to such interchange point or points as shall be designated by the Sublessor upon any sale, lease or other disposal of all or any of the Units.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Sublessee (and the Sublessee will maintain the insurance required by § 7 of this Sublease to be maintained during this period) and are of the essence of this Sublease; and, upon application to any court of equity having jurisdiction in the premises, the Sublessor shall be entitled to a decree against the Sublessee requiring specific performance of the covenants of the Sublessee so to assemble, deliver, store and transport the Units. During any storage period, the Sublessee will permit the Sublessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of any such Unit, to inspect the same. In the event that the Units or any thereof are sold, the Sublessee shall pay to the Sublessor the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Sublessee under the foregoing provisions of this § 11, the Sublessee hereby irrevocably appoints the Sublessor as the agent and attorney of the Sublessee, with full power and authority, at any time while the Sublessee is obligated to deliver possession of any Unit to the Sublessor, to demand and take possession of such Unit in the name and on behalf of the Sublessee from whomsoever shall be in possession of such Unit at the time and to give all appropriate notices and directions to the Association of American Railroads to change the registration of such Unit from the Sublessee to the Sublessor or as the Sublessor may direct.

§ 12. Assignment; Possession and Use. This Sublease shall be assignable in whole or in part by the Sublessor without the consent of the Sublessee; but the Sublessee shall be under no obligation to any assignee of the Sublessor other than the Owner-Trustee, or its reassignee, the Vendor, except upon written notice of such assignment or reassignment

from the Sublessor or the Owner-Trustee. All the rights of the Sublessor hereunder (including, but not limited to, the rights under §§ 6, 7, 10 and 20 and the rights to receive the rentals payable under this Sublease) shall inure to the benefit of the Sublessor's successors and assigns, including the Owner-Trustee, and to the Owner-Trustee's reassigns, including the Vendor, except to the extent the same may be reserved to the Owner-Trustee.

So long as no Event of Default hereunder or event of default under the Security Document (as defined therein) shall have occurred, the Sublessee shall be entitled to the possession of the Units in accordance with the terms of this Sublease but, without the prior written consent of the Sublessor, the Owner-Trustee and the Vendor, the Sublessee shall not assign or transfer its leasehold interest under this Sublease in the Units or any of them, except as hereinafter provided in this § 12. The Sublessee, 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 Owner, the Sublessor, the Owner-Trustee or the Vendor or resulting from claims against the Owner, the Sublessor, the Owner-Trustee or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Sublessor, the Owner-Trustee, the Vendor or the Sublessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, the Owner-Trustee and the Sublessor adversely affect the interest of the Vendor, the Owner-Trustee or the Sublessor in the Equipment, the Vendor's interest in the income and proceeds from the Equipment, or otherwise under this Sublease, the Lease or the Security Document. The Sublessee shall not, without the prior written consent of the Sublessor and the Owner-Trustee, 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 next paragraph.

So long as the Sublessee shall not be in default under this Sublease, the Sublessee shall be entitled to the possession and use of the Units in accordance with the terms

hereof and to permit use of the Units by any railroad company or companies incorporated in the United States of America with which it has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights or over which railroad equipment of such railroad company or companies 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 Sublease, the Lease and the Security Document; provided, however, that the Sublessee shall not assign, sublease or permit the assignment, sublease or use of any Unit predominantly outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), nor shall the Sublessee assign or sublease to, or permit the sublease or use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of the Code. The Sublessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 12 shall be deemed to restrict the right of the Sublessee to assign or transfer its leasehold interest under this Sublease in the Units or possession of the Units to (a) any solvent corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Sublessee hereunder and under the Participation Agreement by an appropriate instrument in writing) into or with which the Sublessee shall have become merged or consolidated or which shall have acquired the property of the Sublessee as an entirety or substantially as an entirety, or (b) any railroad corporation organized under the laws of the United States or any state thereof (which shall have specifically assumed the obligations of the Sublessee hereunder, under the Participation Agreement and under any other instrument or document contemplated hereby or thereby by an appropriate instrument in writing) which, at the time such assignment or transfer thereto shall become effective (1) qualifies as a Class I Railroad under the rules and regulations of the Interstate Commerce Commission, and (2) has outstanding at such time equipment obligations rated "A" (or the equivalent thereof) or better by Moody's

Investors Service or Standard & Poor's Corporation or a successor thereto, which rating shall have been provided thereby during the year preceding such assignment or transfer either in connection with the sale of equipment obligations or by a private letter; provided, in each case, that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition or of such assignment or transfer be in default under any provision of this Sublease.

In case of any sale or conveyance of all or substantially all of the lines of railroad of the Sublessee, or of the lines of the Sublessee on which a substantial portion of the Units are used, the purchaser, or transferee of the purchaser, shall not be at liberty to refuse to accept performance of this Sublease or to disaffirm it and any such purchaser and any such transferee shall assume and agree to perform each and all of the obligations of the Sublessee hereunder.

§ 13. Renewal Options. The Sublessor intends to retain the Units for re-lease at the expiration of the term of this Sublease. Provided that this Sublease has not been earlier terminated and the Sublessee is not in default hereunder the Sublessee may by written notice delivered to the Sublessor not less than six months prior to the end of the original term of this Sublease elect to extend the term of this Sublease in respect of all, but not fewer than all, the Units then covered by this Sublease for one additional three and one-half year period commencing on the scheduled expiration of the original term of this Sublease at a quarterly rental equal to the Rock Island Fair Market Rental Value of each Unit then subject to this Sublease on the date such rental is payable; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Sublease.

Provided the Sublessee exercises the renewal option provided in the first paragraph of this § 13, provided the Sublessor has elected to extend the term of the Lease pursuant to the renewal option provided in the first paragraph of § 13 of the Lease and provided that this Sublease has not been earlier terminated and the Sublessee is not in default hereunder, the Sublessee may by written notice delivered to the Sublessor not less than five months prior to the end of the original term of this Sublease, as extended pursuant to the first paragraph of this § 13, elect to extend the term of

this Sublease in respect of all, but not fewer than all, the Units then covered by this Sublease for one additional three and one-half year period commencing on the scheduled expiration of the term of this Sublease (as so extended), at a quarterly rental rate equal to the Rock Island Fair Market Rental Value of each Unit then subject to this Sublease; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Sublease.

"Rock Island Fair Market Rental Value" shall be determined on the basis of the value which would be obtained as of the commencement of any renewal period in an arm's-length transaction between an informed and willing lessee-user with a credit standing comparable to the credit standing of the Sublessee at the commencement of such period (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease; provided, however, that such Value for any quarterly period shall not be less than the rental payment due under § 3 of the Lease for such period. If, after 30 days from the giving of notice by the Sublessee of the Sublessee's election to extend the term of this Sublease pursuant to the first or second paragraph of this § 13, as the case may be, the Sublessor and the Sublessee are unable to agree upon a determination of the Rock Island Fair Market Rental Value of the Units, the right of the Sublessee to extend this Sublease under the respective election shall expire.

§ 14. Return of Units upon Expiration of Term. On or prior to the termination of the term of this Sublease or as soon as practicable on or after the termination of the term of this Sublease and in any event not later than 90 days after the termination of the term of this Sublease the Sublessee will, at its own cost and expense, at the request of the Sublessor, cause each Unit to be transported to such point or points on the Sublessee's lines as shall be designated by the Sublessor immediately prior to such termination and arrange for the Sublessor to store such Unit on any of the Sublessee's lines of railroad or premises approved by the Sublessor for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 120 days from the date at which at least 95% of such Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of such Units to be at the expense and risk of the Sublessee. During any

which at least 95% of the Units have been so transported. If, after the termination of the storage period provided in this § 14, any Units have not been so transported, the Sublessee shall pay to the Sublessor the per diem interchange for each Unit not so transported for each day after the end of such storage period until such Unit or Units have been so transported; provided, however, that if any Unit has not suffered a Casualty Occurrence prior to the first anniversary of the termination of this Sublease and has not been so transported within one year after the termination of the term of this Sublease, such Unit shall be deemed to have suffered a Casualty Occurrence and the Sublessee shall pay or cause to be paid to the Sublessor, on the 10th day after the expiration of such year, an amount equal to the greater of (x) the Casualty Value of such Unit as of such payment date or (y) the Fair Market Value of such Unit as of the date this Sublease terminated and assuming such Unit had not experienced a Casualty Occurrence and was in the condition required to be maintained by the terms of this Sublease. If after 10 days from the expiration of such year, the Sublessor and the Sublessee are unable to agree upon a determination of the Fair Market Value of any such Unit, such value shall be determined in accordance with the appraisal procedure specified in the fourth paragraph of § 13 of the Lease and payment of such amount shall be made on the fifth business day following the determination of such Fair Market Value. "Fair Market Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing buyer (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell.

Upon the expiration of the original term of this Sublease on April 15, 1995, the Sublessee will deliver to the Sublessor and to the Owner-Trustee a certificate of the Sublessee to the effect that (a) no Event of Default or event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of April 15, 1995; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against the Sublessor, the Owner-Trustee or either Owner) were, as of April 15, 1995, imposed on or with respect to any Unit, any accession thereto, or the interest of the Sublessor, the Owner-Trustee or the Owner therein; (c) the Units have been returned to the Sublessor pursuant to this § 14 in the same operating order, repair and condi-

tion required by the first paragraph of this § 14 and (d) the Sublessee no longer has any interest in the Units under the Sublease or otherwise. The certificate described in clause (a) in the preceding sentence shall be furnished on April 15, 1980, and the certificates described in clauses (b), (c) and (d) in the preceding sentence, in addition to being furnished on April 15, 1980, shall be furnished on a monthly basis, beginning on May 15, 1995, and such certificates shall cover each Unit returned during the preceding 30 calendar days and shall apply to each such unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this § 14. Upon the expiration of any extended term of this Sublease, if the Sublessee shall not have elected to exercise any further renewal option (including the renewal option under the second paragraph of § 13 of the Lease) or if the Sublessee shall have no such further renewal option, the Sublessee shall deliver to the Sublessor and the Owner-Trustee a certificate or certificates of an officer of the Sublessee to the foregoing effect, with such conforming changes as shall be appropriate under the circumstances.

§ 15. Recording. The Sublessee, at its own expense, will cause this Sublease, the Lease, the Security Document, the Sublease Assignment, the Sublease Reassignment and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Sublessee will, at its own expense, undertake the filing, registering, deposit, and recording required of the Owner-Trustee under the Security Document and the Sublessor under the Lease 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 Sublessor, the Owner-Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Sublessor's, the Vendor's and the Owner-Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Sublease, the Lease, the Security Document, the Sublease Assignment, or the Sublease Reassignment.

The Sublessee will promptly furnish to the Sublessor, the Vendor and the Owner-Trustee evidence of each such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Sublessee with respect

thereto satisfactory to the Sublessor, the Vendor and the Owner-Trustee. This Sublease, the Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 16. Obligations of Owner-Trustee Under Security Document; Additional Rentals. In the event that the Owner-Trustee shall become obligated to make any payment (other than payments in settlement for Equipment or the principal of or interest on the Conditional Sale Indebtedness (as defined therein) pursuant to the Security Document and pursuant to the proviso to the third paragraph of Article 12 thereof) or to perform any obligations pursuant to the Security Document not covered by the provisions of this Sublease, the Sublessee shall pay such additional rentals hereunder and perform such obligations so that all of the Owner-Trustee's obligations (other than as aforesaid) pursuant to the Security Document shall be fully complied with, without regard for any limitation of liability of the Owner-Trustee contained in the Security Document.

§ 17. Sublessor's Right To Perform for the Sublessee. If the Sublessee fails to perform or comply with any of its agreements contained herein, the Sublessor may upon notice to the Sublessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Sublessor incurred in connection with such performance or compliance, together with interest on such amount at the rate of 10.75% per annum (or such lesser amount as may be legally enforceable), shall be payable by the Sublessee upon demand.

§ 18. 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 Sublessee promptly to pay an amount equal to interest at a rate of 10.75% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 19. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when delivered to such other party or by registered or certified mail, first-class postage prepaid, addressed as follows:

if to the Sublessor, care of Thayer, Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, Attention of President;

if to the Sublessee, at 332 South Michigan Avenue, Chicago, Illinois 60604, Attention of Chief Financial Officer;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party. Any notice to the Sublessee by the Vendor or the Investors regarding the Sublessee's failure to perform any obligation hereunder shall also be furnished by the Sublessee to the Owner-Trustee and the Sublessor.

§ 20. Federal Income Taxes. The Lease and this Sublease were entered into on the basis that an opinion of the chief mechanical officer of the Sublessee to the effect described in subsection (iv) of Paragraph 8 of the Participation Agreement will be provided to the Owner; that the Owner, as the beneficial owner of each Unit, shall be entitled to such deductions, credits and other benefits provided by the Code to an owner of property, including, without limitation, (a) deductions for depreciation of each Unit under section 167 of the Code computed on the basis (i) that each Unit will have a basis under section 167(g) of the Code at least equivalent to the Purchase Price of such Unit, (ii) initially of the declining balance method, using a rate equal to 200% of the straight line rate, switching to the sum of the years-digits method authorized by section 167(b)(3) of the Code in the year in which such switch will result in a greater depreciation deduction than would be available under the declining balance method, without obtaining the consent of the Commissioner of Internal Revenue in accordance with Treasury Regulation § 167(a)-11(c)(1)(iii), (iii) of the asset depreciation range and class life system permitted by section 167(m) of the Code and Treasury Regulation § 1.167(a)-11(a)(1), (iv) of an asset depreciation period of 12 years, (v) of a net salvage value of zero after the reduction permitted by section 167(f)(1) of the Code and (vi) that the Units of Equipment shall be treated as having been placed in service on the respective dates on which they are accepted

and delivered under this Lease and the Security Document (hereinafter called the ADR Deductions), (b) deductions with respect to interest payable on the Conditional Sale Indebtedness (hereinafter called the Interest Deductions), and (c) investment credit pursuant to section 38 of the Code at least equal to 10% of the aggregate Purchase Price of such Unit (hereinafter called the Investment Credit). This Sublease has also been entered into on the assumption that (1) for Federal income tax purposes all amounts includible in the gross income of the Owner with respect to the Equipment and all deductions allowable to the Owner with respect to the Equipment will be treated as derived from, or allocable to, sources within the United States, (2) for purposes of computing the ADR Deductions with respect to the Equipment for the calendar year in which the Units of Equipment were first placed into service, the Owner will be entitled to elect and will elect the half-year convention and (3) the Federal rate of tax imposed on taxable income of corporations in excess of $100,000 will be 46% through the date of acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

The Sublessee agrees that neither it nor any corporation controlled by it or the Debtor, in control of it or the Debtor, or under common control with it or the Debtor, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing.

The Sublessee agrees to use its best efforts to maintain or cause to be maintained sufficient records to verify the amount of income and deductions in respect of each Unit of Equipment allocable to sources within and without the United States. The Sublessee agrees to give the Owner, within 60 days after request therefor, written notice describing the amount of income and deductions allocable to sources within and without the United States and specifying in reasonable detail the basis on which such allocations were made, if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner. In addition, within 90 days after the end of each calendar year, beginning with the year 1979, the Sublessee agrees to furnish to the Owner a statement to the effect that none of the Equipment has been used outside of

the United States other than in Canada or Mexico on a temporary basis not exceeding 90 days during the preceding calendar year, or if any of the Equipment was used outside the United States other than as aforesaid during such year, giving the appropriate details of any such use, which statement shall be signed by the chief financial officer of the Sublessee.

The Sublessee represents and warrants that (i) all of the Units constitute property the entire Purchase Price of which qualifies for the Investment Credit under section 50 of the Code; (ii) at the time the Owner-Trustee becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of section 48(b) of the Code and at the time the Owner-Trustee becomes the owner of the Units, the Units will not have been used or placed in service by any person so as to preclude "the original use of such property" within the meaning of sections 48(b) and 167(c)(2) of the Code from commencing with the Owner-Trustee; (iii) at all times during the original term of this Sublease and all renewal terms, each Unit will constitute "section 38 property" within the meaning of section 48(a) of the Code; and (iv) at all times during the original term of this Sublease and the renewal periods, the Owner will be entitled to treat, for Federal income tax purposes, each item of income, deduction, and credit relating to all Units subject to this Sublease as being derived from, or allocable to, sources within the United States.

If, for Federal income tax purposes, as a result of any reason whatsoever, but excluding any of the specific occurrences or events specified in the sixth paragraph of this § 20, (a) the Owner shall not be entitled to, shall suffer a disallowance or recapture of, shall lose the benefit of, or shall lose the right to claim (including a good faith determination based upon the opinion, to be obtained at the cost of the Sublessee, of independent tax counsel of the Owner approved by the Lessee ("Special Tax Counsel"), which approval shall not unreasonably withheld, that there is no reasonable basis to make such claim), all or any portion of the Investment Credit, the ADR Deductions or the Interest Deductions or (b) any item of income, deduction or credit with respect to the Equipment shall not be treated as derived from, or allocable to, sources within the United States (any such event described in clause (a) or (b) of this paragraph being hereinafter called a Loss), then the Sublessee, at its option, after receiving written notice from the

Sublessor of such Loss together with a certificate of an officer of the Sublessor setting forth in reasonable detail the computations and methods used in calculating such Loss and the amount or amounts of the payments required to be made pursuant to clause (i) or (ii) below (such notice and certificate being hereinafter collectively called the Net Economic Return Notice), shall either (i) commencing with the next rental payment date occurring more than 30 days after receipt by the Sublessor of the Net Economic Return Notice, which Net Economic Return Notice may not be delivered more than 30 days prior to payment by the Owner of the tax which becomes due as a result of the Loss, increase the rental payments under this Sublease over its remaining term by an amount as shall cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such Loss had not occurred, such increase in the rental payments to be made directly to the Owner, or (ii) within 30 days of receipt of the Net Economic Return Notice, pay to the Owner in lump sum the amount as shall, in the reasonable opinion of the Owner, be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred. If the option under (ii) above is selected, then to the extent any Loss results in a later benefit to the Owner which has not been taken into account in determining the lump sum payment, payment will be made to the Sublessee at the time such benefit is realized; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Sublessee to the Owner pursuant to the option specified in (ii) above in respect of a Loss less (y) the amount of all prior payments by the Owner to the Sublessee hereunder, and the amount by which such payment would exceed such amounts shall reduce pro tanto any subsequent obligation of the Sublessee to make any payments to the Owner pursuant to the option specified in (ii) above. The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions as were utilized by the Owner in originally evaluating the transaction except for the assumption that has resulted in such adjustments.

In the event that the Owner suffers a Loss and the Owner and the Sublessee are unable to agree within 60 days following the Sublessee's receipt of a Net Economic Return

Notice on the indemnity amounts or amounts required to restore the Owner's Net Economic Return, then the Sublessee shall pay in lump sum, within 30 days after expiration of said 60-day period, such amount as shall, in the reasonable opinion of the Owner (regardless of whether the Sublessee agrees therewith), be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred.

If there is any amendment to, or change in, the Code or any regulation thereunder which is effective on or prior to the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Sublease, and if such amendment or change affects the privilege of the Owner to file consolidated Federal, state and local income tax returns with corporations affiliated with it, or the Federal rate of tax on the taxable income of corporations, then the amounts of rentals and the Casualty Values under this Sublease will be appropriately adjusted by such amount or amounts as shall, in the reasonable opinion of the Owner, cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such amendment or change had not occurred; provided, however, that the rentals and Casualty Values, as so adjusted, shall not be less than amounts sufficient to satisfy the obligations of the Owner-Trustee under the Security Document.

Any late payment by any party hereto of any of its obligations under this § 20 shall result in the obligation on the part of such party promptly to pay an amount equal to interest at the rate per annum equal to 1% in excess of the Prime Rate compounded quarterly on the overdue payment. Prime Rate as used herein shall mean the rate per annum which Manufacturers Hanover Trust Company, New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable.

Notwithstanding anything to the contrary set forth hereinabove, no amount shall be payable as an indemnity here under to the Owner in respect of any Loss to the extent such Loss is the result of any of the following on the part of the Owner:

(i) a voluntary transfer or voluntary disposition (whether prior to, during or after the term of the

Lease or this Sublease, but not including a transfer or disposition as a result of a Casualty Occurrence) of any Units or of the interest of the Owner in any Units or the rentals under the Lease or this Sublease, or any transfer or disposition of any Units or of the interest of the Owner in any Units or the rentals under the Lease or this Sublease, whether voluntary or involuntary, which results from bankruptcy or other proceedings for the relief of debtors in which the Owner is the debtor, unless, in each case, such transfer or disposition is made (A) after an Event of Default, as defined in § 10 of this Sublease, has occurred and is continuing; (B) in connection with any alteration, modification or addition to any Unit; or (C) with the consent of the Sublessee;

(ii) the failure of the Owner to claim in a timely manner the Investment Credit, the ADR Deductions (including making all appropriate elections under the applicable Income Tax Regulations), the Interest Deductions or any foreign tax credit or to make a timely election, if permitted by the Code, to treat income and deductions with respect to the Equipment as derived from, or allocable to, sources within the United States, unless Special Tax Counsel of the Owner shall have given its opinion to the Owner that such claim is not allowable;

(iii) the failure of the Owner to have sufficient liability for Federal income tax against which to credit Investment Credit or foreign tax credit or sufficient income to benefit from the ADR Deductions or the Interest Deductions, as applicable;

(iv) any residual sharing, guarantee agreement or other voluntary act of the Owner (either individually or in concert with others) which is not included in the foregoing clauses and which is not required or contemplated by the Security Document, the Participation Agreement, the Trust Agreement, the Lease, this Sublease, the Sublease Assignment, the Sublease Assignment Consent, the Lease Assignment, the Consents, the Assignment, the Bond, the Assumption Agreement if entered into or any other document contemplated by any of the foregoing or entered into in connection therewith;

(v) a change in the form or type of organization or the taxable status of the Owner or any successor or transferee of the Owner;

(vi) a Casualty Occurrence with respect to a Unit, if the Owner-Trustee shall have received all amounts required to be paid in respect of such Casualty Occurrence under the Lease;

(vii) any amendment to, or change in, the Code or the Income Tax Regulations which is effective after acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document, the Lease and this Sublease; or

(viii) termination of this Sublease, pursuant to the second paragraph of § 4 hereof, upon a finding by the Court that the Sublessee is unable to transport the traffic offered the Sublessee because of the Sublessee's cash position or that other facts make the Sublessee's continuing operation of the Debtor impossible and upon an order of the Court that the Sublessee discontinue service and/or liquidate the assets of the Debtor or upon a disaffirmance or rejection of this Sublease pursuant to a plan of reorganization in the Reorganization Proceedings.

If at the conclusion of an audit the Owner receives a preliminary or "30-day" letter from the Internal Revenue Service proposing an adjustment in any item claimed in accordance with the fifth paragraph of this § 20 on a tax return or refund claim of the Owner for which the Sublessee would be required to indemnify the Owner pursuant to this § 20 and the amount of the indemnity which the Sublessee would be required to pay would exceed $100,000 or in the good faith opinion of the Sublessee, the adjustment would have a substantial and continuing precedental adverse effect on the Lessee or the Sublessee or the railroad industry and the Sublessee so advises the Owner in writing, then, if requested by the Sublessee in a timely written request, the Owner shall request an opinion from Special Tax Counsel of the Owner as to whether the basis in law and in fact in favor of allowance of the item proposed to be adjusted outweighs the basis in law and in fact to the contrary. If the opinion is to that effect and if the Sublessee promptly requests the Owner to do so, the Owner shall contest the proposed adjustment; provided, however, that Special Tax Counsel of the Owner shall determine the nature of all action to be taken to contest such proposed adjustment including (A) whether any action to contest such proposed adjustment shall initially be by way of judicial or administrative proceedings, or both, (B) whether any such proposed adjustment shall be contested by resisting payment thereof or by paying the same and seeking a refund thereof,

and (C) if the Owner shall undertake judicial action with respect to such proposed adjustment, the court or other judicial body before which such action shall be commenced. The Owner shall have full control over any contest pursuant to this paragraph and shall not be obligated to appeal an adverse determination by any court if the Owner shall have obtained an opinion from its Special Tax Counsel that the basis in law and in fact in favor of a favorable outcome in the event such determination is appealed outweighs the basis in law and in fact to the contrary there is no reasonable likelihood of a favorable outcome in the event such determination is appealed. At any time, whether before or after commencing to take the action set forth in this paragraph, the Owner may decline to take such action by notifying the Sublessee in writing that the Sublessee is relieved of its obligation to indemnify the Owner with respect to the adjustment proposed by the Internal Revenue Service or such portion thereof as may be specified in such notice.

The Owner shall not be required to take any action pursuant to the preceding paragraph unless and until the Sublessee shall have agreed to indemnify the Owner in a manner reasonably satisfactory to the Owner for any liability or loss which the Owner may incur as a result of contesting the validity of any proposed adjustment and shall have agreed to pay to the Owner on demand all costs and expenses which the Owner may incur in connection with contesting such proposed adjustment (including reasonable fees and disbursements of counsel selected by the Owner). If the Owner determines to contest any adjustment by paying the additional tax and suing for a refund, the Sublessee shall have paid to the Owner an amount equal to the sum on an after-tax basis of any tax, interest, penalties and additions to tax which are required to be paid. Upon receipt by the Owner of a refund of any amounts paid by it based on the adjustment in respect of which amounts it shall have been paid an equivalent amount by the Sublessee, the Sublessor shall pay to the Sublessee when received from the Owner the amount of such refund together with any interest received by it on such amount, and if such refund is not taxable income to the Owner, and if payment under this or the preceding paragraph to the Sublessee is deductible by the Owner for Federal income tax purposes, then the Sublessor shall also pay to the Sublessee when received from the Owner the amount by which the Owner's taxes are reduced as the result of such deduction; provided, however, that in no event shall the total amount paid to the Sublessee pursuant to this or the preceding paragraph with respect to a particular refund exceed the amount paid by the Sublessee to the Owner in connection with

the payments made pursuant to the immediately preceding sentence to which such refund relates.

For purposes of this § 20, the term "Owner" shall include any affiliated group, within the meaning of section 1504 of the Code, of which the Owner is a member if consolidated returns are filed for such affiliated group for Federal income tax purposes.

If the Owner is required by the Internal Revenue Service to include in its gross income an amount in respect of any improvement and/or addition to such Unit of Equipment made by the Sublessee, title to which vests in the Owner or the Owner-Trustee (which amounts are hereinafter called Capital Expenditures), then the Sublessee shall pay directly to the Owner, as an indemnity, in immediately available funds, such amount or amounts which, after deduction of all taxes required to be paid by the Owner in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority of the United States, shall be equal to the sum of the aggregate additional Federal, state or local income taxes payable by the Owner from time to time as a result of such Capital Expenditure plus the amount of any interest, penalties or additions to tax payable as a result of any such Capital Expenditure (less any Federal, state or local tax benefits resulting from payment of any amounts reimbursed hereunder). If as a result of any such Capital Expenditure the aggregate Federal, state or local income taxes paid by the Owner for any taxable year shall be less than the amount of such taxes which would have been payable by the Owner had no such Capital Expenditure been made, then the Sublessor shall pay the Sublessee (when received by the Sublessor from the Owner) the amount of such savings in taxes plus any additional tax benefits realized by the Owner as a result of such payment; provided, however, that the Sublessor shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Sublessee to the Owner pursuant to this paragraph in respect of any Capital Expenditures less (y) the amount of all prior payments by the Sublessor to the Sublessee hereunder, and the amount by which such payment would exceed such amount shall reduce pro tanto any subsequent obligation of the Sublessee to make any payments to the Owner pursuant to the first sentence of this paragraph. The amount payable to the Owner pursuant to this paragraph shall be paid within 30 days after receipt of the written

demand therefor from the Owner (but not prior to payment by the Owner of the additional Federal, state or local income tax, as the case may be, which becomes due as a result of the said inclusion) accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Sublessee from the Sublessor pursuant to this paragraph shall be paid immediately after the Sublessor receives from the Owner the amount that the Owner realized from any such savings in its income taxes or additional tax benefits, as the case may be. The Sublessor agrees to cause the Owner to contest the inclusion in its gross income of any amount with respect to a Capital Expenditure to the extent, and under the circumstances, set forth in the ninth and tenth paragraphs of this § 20.

The Sublessee agrees to give the Owner, within 30 days after request therefor, written notice describing in reasonable detail Capital Expenditures made and specifying the cost thereof with respect to each Unit of Equipment if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner.

In the event that any indemnity payments are required to be made by the Sublessee, or in the event the amount of rentals under this Sublease are adjusted, pursuant to any paragraph of this § 20, the damages and amounts set forth in § 10 of this Sublease and the applicable Casualty Value percentages set forth in Schedule B to this Sublease shall be appropriately adjusted by the Owner (but in no event shall the applicable Casualty Values be reduced below the corresponding Fair Values as defined in the Security Document). The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions, including, without limitation, tax rates, as were utilized by the Owner in originally evaluating this transaction except for the assumption that has resulted in such adjustment. In connection therewith, the Sublessor shall cause the Owner to provide the Sublessee with a certificate of an officer of the Owner setting forth in reasonable detail the figures and methods used in making such calculations. In the case of any such adjustments in the damages and amounts set forth in § 10 of this Sublease and the applicable Casualty Value percentages set forth in Schedule B to this Sublease, if any payment of such damages, amounts or Casualty Values shall have been made

prior to the adjustments made pursuant to this paragraph, (a) the Sublessee shall pay to the Owner the excess amount which would have been payable on the due date of such payment by reason of the adjustments pursuant to this paragraph or (b) the Sublessor shall pay to the Sublessee when received from the Owner the amount of such payments in excess of the amount of such payments which would have been payable by reason of the adjustments pursuant to this paragraph. The Sublessee's and the Sublessor's agreements to pay any sums which may become payable pursuant to this § 20 shall survive the expiration or other termination of this Sublease and the Lease.

The Sublessee shall have the right, upon demand, to have Thayer Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, or another independent party selected by the Sublessee and approved by the Owner, which approval shall not be unreasonably withheld, review any calculations made by the Owner pursuant to this § 20 to determine the consistency of the methods and the assumptions used in such calculations with those used by the Owner in originally evaluating this transaction and the accuracy of such computations based on such methods and assumptions.

The liability of the Sublessee to make indemnification payments pursuant to this § 20 shall, notwithstanding any expiration or termination of this Sublease, continue to exist until such indemnity payments are made by the Sublessee. All indemnity payments under this § 20 shall be made directly to the Owner.

§ 21. Severability; Effect and Modification of Sublease; Third Party Beneficiaries. Any provision of this Sublease 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.

This Sublease exclusively and completely states the rights of the Sublessor and the Sublessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement and the Lease. No variation or

modification of this Sublease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Sublessor and the Sublessee and no such variation shall be made without the prior written consent of the Vendor and the Owner-Trustee.

Nothing in this Sublease shall be deemed to create any right in any person not a party hereto (other than the Sublessor, the Owner, the Builder, the Owner-Trustee, the Vendor and the permitted successors and assigns of a party, each of which shall be deemed to be a third party beneficiary hereof) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

§ 22. Other Obligations. The Sublessee agrees that, during the term of this Sublease, the Sublessee will not assume or enter into any other leases of equipment, equipment trust agreements, conditional sale agreements or other liabilities or obligations in connection with the leasing or financing of the acquisition of equipment or other tangible personal property, (i) if such liabilities or obligations would be entitled, directly or indirectly, to any priority in right of payment over the obligations of the Sublessee under this Sublease, or (ii) if such liabilities or obligations would be secured, directly or indirectly, by any mortgage, lien or other security interest in property of the Debtor or the Sublessee (except the equipment or other property involved in the particular transaction) unless the obligations of the Sublessee under this Sublease are equally and ratably secured thereby, provided that nothing herein shall restrict the right of the Trustee to issue and sell trustees' certificates for any proper purpose.

It is hereby expressly understood and agreed that any and all obligations of the Sublessee hereunder and any and all amounts payable in connection therewith, including but not limited to amounts payable under §§ 3 and 7 hereof and obligations arising out of any breach of warranty or breach or termination of this Sublease, or otherwise, together with interest thereon to the date of payment thereof, shall be and deemed to be necessary costs and expenses of administration incurred by the Trustee in the Reorganization Proceedings and shall rank equally and ratably with all other expenses of administration of the Trustee, except trustees' certificates heretofore or hereafter issued by the Trustee;

and, without limitation of the foregoing, to the extent that the free assets are not sufficient to pay in full in cash such obligations, such obligations, together with interest thereon as herein provided, shall be paid in full in cash out of the liened assets prior to any payment or other distribution being made to the Bondholders.

For the purpose of this Sublease:

(a) The term "free assets" shall mean any and all property and assets of the Sublessee and the Debtor's estate of every kind and description, tangible and intangible (including cash on hand and on deposit), not subject to mortgage, pledge, lien, trustees' certificates, equipment trusts or other encumbrances.

(b) The term "liened assets" shall mean any and all property and assets of the Sublessee and the Debtor's estate of every kind and description, tangible and intangible, subject to the lien of the mortgage securing the Bonds.

(c) The term "Bonds" shall mean any bonds issued by the Debtor, including the following: the First Mortgage Bonds, Series A due 1980, Series C due 1983, Series G due 1993, Series H due 2004 and Series I due 2004.

(d) The term "Bondholders" shall mean the holders of any of the Bonds issued by the Debtor.

§ 23. Execution. This Sublease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although for convenience this Sublease 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.

§ 24. Law Governing. The terms of this Sublease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

IN WITNESS WHEREOF, the parties hereto have exe-

cuted or caused this instrument to be executed as of the date first above written.

WILLIAM M. GIBBONS,

_____[Seal]
As TRUSTEE OF THE PROPERTY
OF CHICAGO, ROCK ISLAND
AND PACIFIC RAILROAD COMPANY,
and not individually

Witness:

_____

GAMS TRANSPORTATION, INC.,

[CORPORATE SEAL]

by

_____

Attest:

_____

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

On this day of 1979, before me personally appeared William M. Gibbons, to me pesonally known who, being by me duly sworn, says that he is the TRUSTEE OF THE PROPERTY OF THE CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, signer and sealer of the foregoing instrument, and he acknowledged the same to be his free act and deed, as such Trustee pursuant to specific orders of the United States District Court for the Northern District of Illinois in proceedings bearing No. 75B-2697, before me.

_____
Notary Public

[Notarial Seal]

My Commission Expires

STATE OF CALIFORNIA,)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is , of GAMS TRANSPORTATION, INC., 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.

_____
Notary Public

[Notarial Seal]

My Commission Expires

Schedule A to the Sublease

Type	Builder's Specification	Builder's Plant	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Road Numbers (Inclusive)	Estimated Time of Delivery
50 foot, 6 inch 70-ton Class XF boxcar	No. 1042, dated March 29, 1979, as amended	Bessemer, Alabama	308	$40,900	$12,597,200	ROCK 302042 through ROCK 302249 W&OV 1 through W&OV 100	July-August 1979

Place of delivery: Bessemer, Alabama

SCHEDULE B
to
SUBLEASE

Casualty Values*

Item I:

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**		Percentage of Purchase Price
4/1980	1	85.23	1/1990	40	67.11
7/1980	2	85.76	4/1990	41	65.98
10/1980	3	86.20	7/1990	42	64.82
1/1981	4	86.49	10/1990	43	63.65
4/1981	5	86.79	1/1991	44	62.45
7/1981	6	87.07	4/1991	45	61.25
10/1981	7	87.28	7/1991	46	60.01
1/1982	8	87.44	10/1991	47	58.75
4/1982	9	87.51	1/1992	48	57.48
7/1982	10	87.56	4/1992	49	56.21
10/1982	11	87.42	7/1992	50	54.90
1/1983	12	87.35	10/1992	51	53.59
4/1983	13	87.23	1/1993	52	52.26
7/1983	14	87.08	4/1993	53	50.93
10/1983	15	86.83	7/1993	54	49.58
1/1984	16	86.51	10/1993	55	48.23
4/1984	17	86.24	1/1994	56	46.87
7/1984	18	85.90	4/1994	57	45.50
10/1984	19	85.48	7/1994	58	44.14
1/1985	20	84.98	10/1994	59	42.76
4/1985	21	84.47	1/1995	60	41.39
7/1985	22	83.93	4/1995	61	40.01
10/1985	23	83.30	7/1995	62	38.63
1/1986	24	82.61	10/1995	63	37.25
4/1986	25	81.90	1/1996	64	35.87
7/1986	26	81.27	4/1996	65	34.49
10/1986	27	80.49	7/1996	66	33.11
1/1987	28	79.15	10/1996	67	31.73
4/1987	29	78.06	1/1997	68	30.35
7/1987	30	77.21	4/1997	69	28.98
10/1987	31	76.32	7/1997	70	28.62
1/1988	32	75.40	10/1997	71	28.25
4/1988	33	74.45	1/1998	72	27.87
7/1988	34	73.48	4/1998	73	27.48
10/1988	35	72.48	7/1998	74	27.09
1/1989	36	71.45	10/1998	75	26.69
4/1989	37	70.40	1/1999	76	26.27
7/1989	38	69.32	4/1999	77	25.85
10/1989 and thereafter	39	68.23	7/1999	78	25.42

* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

SCHEDULE B
to
SUBLEASE

Casualty Values*

Item I:

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**	Percentage of Purchase Price
10/1999	79	24.98		
1/2000	80	24.53		
4/2000	81	24.07		
7/2000	82	23.60		
10/2000	83	23.12		
1/2001	84	22.63		
4/2001	85	22.13		
7/2001	86	21.61		
10/2001	87	21.09		
1/2002	88	20.55		
4/2002	89	20.00		
and thereafter				

Item II:

Anniversary of Delivery and Acceptance	Percentage of Purchase Price
Third	19.64444
Fifth	13.09630
Seventh	6.54815

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* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

Appendix B to
Lease

ASSIGNMENT OF SUBLEASE AND AGREEMENT

Dated as of July 20, 1979

between

GAMS TRANSPORTATION, INC.,
as Lessee,

and

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely
as Owner-Trustee for General Electric Credit Corporation,
as Owner-Trustee.

ASSIGNMENT OF SUBLEASE AND AGREEMENT dated as of July 20, 1979, between GAMS TRANSPORATION, INC. (hereinafter called the Lessee), and FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof, with General Electric Credit Corporation.

The Owner-Trustee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), providing for the sale to the Owner-Trustee of such units of railroad equipment (hereinafter called the Units) described in Annex B thereto as are delivered to and accepted by the Owner-Trustee thereunder.

The Owner-Trustee and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) providing for the leasing by the Owner-Trustee to the Lessee of the Units.

The Lessee and William M. Gibbons, Trustee of the Property of the Chicago, Rock Island and Pacific Railroad Company (hereinafter called the Sublessee), have entered into a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease) providing for the leasing by the Lessee to the Sublessee of the Units.

In order to provide security for the obligations of the Lessee under the Lease and under the Participation Agreement hereinafter referred to and as an inducement to Investors (as that term is defined in the Participation Agreement) (hereinafter called the Investors) to invest in the Conditional Sale Indebtedness (as that term is defined in the Security Document), the Lessee agrees to assign for security purposes all its rights in, to and under the Sublease to the Owner-Trustee.

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter

mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 11 hereof, the Lessee hereby assigns, transfers and sets over unto the Owner-Trustee, as collateral security for the payment and performance of the Lessee's obligations under the Lease and the Participation Agreement, all the Lessee's right, title and interest, powers, privileges, and other benefits under the Sublease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums now or hereafter payable to or receivable by the Lessee from the Sublessee under or pursuant to the provisions of the Sublease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Sublease, and to do any and all other things whatsoever which the Lessee is or may become entitled to do under the Sublease. In furtherance of the foregoing assignment, the Lessee hereby irrevocably authorizes and empowers the Owner-Trustee in its own name, or in the name of its nominee, or in the name of the Lessee or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessee is or may become entitled under the Sublease, and to enforce compliance by the Sublessee with all the terms and provisions thereof.

The parties hereto acknowledge that certain rights under this Sublease Assignment are to be reassigned by the Owner-Trustee to First Security Bank of Utah, N.A., not in its individual capacity but solely as Agent (hereinafter called the Vendor) under a Participation Agreement dated as of the date hereof (herein called the Participation Agreement), and that pursuant to an assignment of the Lease and a reassignment of the Sublease all moneys payable thereunder and so assigned are to be paid at the principal office of the Vendor for application by the Vendor pursuant to the Participation Agreement. In the event that the Owner-Trustee receives any amounts of money under the terms of the Lease or the Sublease and so assigned, the Owner-Trustee shall forthwith forward such amounts to the Vendor for its application as aforesaid.

2. This Sublease Assignment is executed only as security of the obligations of the Lessee under the Lease

and the Participation Agreement and, therefore, the execution and delivery of this Sublease Assignment shall not subject the Owner-Trustee to, or transfer, or pass, or in any way affect or modify the liability of the Lessee under the Sublease, it being understood and agreed that notwithstanding this Sublease Assignment or any subsequent assignment, all obligations of the Lessee to the Sublessee shall be and remain enforceable by the Sublessee, its successors and assigns, against, and only against, the Lessee or persons other than the Owner-Trustee and the Vendor.

3. To protect the security afforded by this Sublease Assignment, but subject to the provisions of Paragraph 11 hereof, the Lessee agrees as follows:

(a) The Lessee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Sublease provides are to be performed by the Lessee; without the written consent of the Owner-Trustee and, so long as the Conditional Sale Indebtedness is outstanding, the Vendor, the Lessee will not anticipate the rents under the Sublease or waive, excuse, condone, forgive or in any manner release or discharge the Sublessee of or from the obligations, covenants, conditions and agreements to be performed by the Sublessee which are intended to satisfy the obligations of the Lessee under the Lease, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement so amending, modifying or terminating the Sublease and the Lessee agrees that any such amendment, modification or termination thereof without such consent shall be void.

(b) Should the Lessee fail to make any payment or to do any act which this Sublease Assignment requires the Lessee to make or do, then the Owner-Trustee or, so long as the Conditional Sale Indebtedness is outstanding, the Vendor, but without obligation so to do, after first making written demand upon the Lessee and affording the Lessee a reasonable period of time within which to make such payment or do such act, but without releasing the Lessee from any obligation hereunder, may make or do the same in such manner and to such extent as the Owner-Trustee or Vendor may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear

in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Owner-Trustee and the Vendor, and also the right to perform and discharge each and every obligation, covenant and agreement of the Lessee contained in the Sublease; and in exercising any such powers, the Owner-Trustee and the Vendor may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Lessee will reimburse the Owner-Trustee and the Vendor for such costs, expenses and fees.

4. Subject to the provisions of Paragraph 11 hereof, the Lessee does hereby constitute the Owner-Trustee the Lessee's true and lawful attorney, irrevocably, with full power (in the name of the Lessee, 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 Sublease to which the Lessee is or may become entitled, to enforce compliance by the Sublessee with all the terms and provisions of the Sublease, 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 to the Owner-Trustee may reasonably seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Lessee's obligations under the Lease and the Participation Agreement, this Sublease Assignment and all rights herein assigned to the Owner-Trustee shall terminate, and all estate, right, title and interest of the Owner-Trustee and Vendor in and to the Sublease shall revert to the Lessee, but the Owner-Trustee shall execute and deliver such documents as the Lessee may reasonably request in order to confirm, or make clear upon public records, such termination and/or reversion.

6. The Lessee will pay and discharge any and all claims, liens, charges or security interests (other than created by the Security Document) on the Sublease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessee, or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the Participation Agreement, the Security Document, the Sublease or the Lease (but including tax liens arising out of the receipt of the income and proceeds from the Units) unless such claims, liens,

charges or security interests would rank subordinate to the interests of the Owner-Trustee and the Vendor in and to the Sublease and of the Vendor in and to the Lease or such rentals or other payments, or unless the Lessee shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not materially adversely affect such interests of the Vendor and the Owner-Trustee, in the reasonable opinion of the Vendor and the Owner-Trustee, respectively.

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

8. The Owner-Trustee may assign all or any of the rights assigned to it hereby or arising under the Sublease, including, without limitation, the right to receive any Payments due or to become due and the power to act as the Sublessee's true and lawful attorney, and the parties hereto acknowledge that this Sublease Assignment is to be reassigned to the Vendor as aforesaid. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Owner-Trustee hereunder. The Owner-Trustee will give written notice to the Lessee and the Sublessee of any such assignment other than the assignment to the Vendor.

9. This Sublease Assignment shall be governed by the laws of the State of Ohio, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

10. So long as the Conditional Sale Indebtedness is outstanding, the Lessee shall cause copies of all notices received in connection with the Sublease and all payments thereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the Security Document or at such other address as the Vendor shall designate.

11. The Owner-Trustee hereby agrees with the Lessee that, so long as no Event of Default, or any event which with lapse of time or notice or both would constitute such an Event of Default, under the Lease has occurred and is then continuing, the Owner-Trustee will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of

the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessee to the Owner-Trustee by this Sublease Assignment, except the right to receive, forward and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Sublease, the Lease and the Security Document, the Lessee may, so long as no Event of Default or event which with notice or lapse of time or both would constitute such an Event of Default under the Lease has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges and remedies under the Sublease (except, unless the Sublease shall be terminated, the right to receive, forward and apply Payments as provided in Paragraph 1 hereof or to amend, modify or waive any provisions of the Sublease such that the Sublease would fail to meet the requirements of a sublease as provided in the fourth paragraph of § 12 of the Lease), including its rights, powers, privileges and remedies arising out of subparagraphs (a) and (b) of the first paragraph of § 10 of the Sublease.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

GAMS TRANSPORTATION, INC.,

by

_____

[Corporate Seal]

Attest:

_____

FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Owner-Trustee,

by

_____

[Corporate Seal]

Attest:

_____

Authorized Officer

STATE OF CALIFORNIA,)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is of GAMS TRANSPORTATION, INC., 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.

Notary Public

[Notarial Seal]

My Commission Expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, 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 By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission Expires

SUBLESSEE'S CONSENT AND AGREEMENT

On March 17, 1975, the Chicago, Rock Island and Pacific Railroad Company, Debtor, filed a petition for reorganization under Section 77 of the Bankruptcy Act in the United States District Court for the Northern District of Illinois and such petition was duly approved as properly filed and by order entered on April 4, 1975, by such Court the undersigned William M. Gibbons was duly qualified as Trustee of the Property of the Chicago, Rock Island and Pacific Railroad Company, Debtor. The undersigned, the Sublessee named in the Sublease referred to in the foregoing Sublease Assignment (hereinafter called the Assignment), 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 Investors, as such term is defined in the Security Document referred to in the Assignment, to invest in the Conditional Sale Indebtedness (as so defined) pursuant to which First Security State Bank, not in its individual capacity but solely as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Owner-Trustee), is in part financing its purchase of units of railroad equipment (hereinafter called the Units) and to the Owner-Trustee to purchase such Units pursuant to the Security Document (as defined in the Assignment), which Units the Owner-Trustee is leasing to GAMS Transportation, Inc. (hereinafter called the Lessee), pursuant to the Lease (as defined in the Assignment) and the Lessee is leasing to the Sublessee pursuant to the Sublease; and in consideration of other good and valuable consideration, the Sublessee agrees that:

(1) subject to the terms and conditions of the Assignment, the Sublessee will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Sublease and assigned to the Owner-Trustee by the Assignment (other than indemnity payments under § 6 and § 20 of the Sublease payable to the Lessee, which shall be paid to the Owner-Trustee at its address set forth in the Participation Agreement referred to below) (which moneys are hereinafter called the Payments) due and to become due to the Lessee under the Sublease in respect of the Units leased thereunder, directly to the First Security Bank of Utah, N.A., as agent (hereinafter called

the Agent) under the Participation Agreement referred to in the Assignment, to be applied as provided in the first paragraph of Paragraph 10 of the Participation Agreement, to its address at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) the Owner-Trustee shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Sublessee under the Sublease as though the Owner-Trustee were named therein as the Lessee;

(3) the Owner-Trustee shall not, by virtue of the Sublease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Sublease or otherwise;

(4) the Sublease shall not, without the prior written consent of the Owner-Trustee and, so long as the Conditional Sale Indebtedness is outstanding, the Agent, be terminated (other than pursuant to the second paragraph of § 4 thereof) or modified, nor shall any action be taken or omitted by the Sublessee the taking or omission of which might result in an alteration or impairment of the Sublease or the Sublease Assignment or this Consent and Agreement or of any of the rights created by any thereof; and

(5) it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Sublease and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Consent and Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the

Owner-Trustee by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Illinois and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of July 20, 1979

WILLIAM M. GIBBONS,

_____ [Seal]
As TRUSTEE OF THE PROPERTY
OF CHICAGO, ROCK ISLAND AND
PACIFIC RAILROAD COMPANY,
and not individually.

Witness:

_____

Accepted:

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by _____

[SEAL]

Attest:

_____

Annex D to the
Conditional Sale Agreement

ASSIGNMENT OF LEASE, REASSIGNMENT OF SUBLEASE, ASSIGNMENT OF SURETY BOND AND AGREEMENT

Dated as of July 20, 1979

between

FIRST SECURITY STATE BANK,
not in its individual capacity but solely as Owner-Trustee for
GENERAL ELECTRIC CREDIT CORPORATION,

and

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity but solely as agent under the Participation Agreement dated as of the date hereof,

as Agent.

ASSIGNMENT OF LEASE, REASSIGNMENT OF SUBLEASE, ASSIGNMENT OF SURETY BOND AND AGREEMENT dated as of July 20, 1979, by and between FIRST SECURITY STATE BANK, not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof with GENERAL ELECTRIC CREDIT CORPORATION (hereinafter called the Owner) and FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as agent (hereinafter called the Agent) for certain institutional investors (hereinafter called the Investors) under a Participation Agreement dated as of the date hereof with the Owner-Trustee, the Owner, the Investors, GAMS TRANSPORTATION, INC. (hereinafter called Great American), and WILLIAM M. GIBBONS, TRUSTEE OF THE PROPERTY OF CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY (hereinafter called the Railroad).

The Owner-Trustee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), providing for the sale to the Owner-Trustee of such units of railroad equipment (hereinafter called the Units) described in the Annex B thereto as are delivered to and accepted by the Owner-Trustee thereunder and the Security Document is being assigned to the Agent by the Builder.

The Owner-Trustee and Great American have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter, together with the amendments and supplements thereto, being called the Great American Lease), providing for the leasing by the Owner-Trustee to Great American of the Units.

Great American and the Railroad have entered into a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease), providing for the subleas-

ing by Great American to the Railroad of the Units leased under the Great American Lease.

Great American has assigned all its rights in, to and under the Sublease to the Owner-Trustee pursuant to an Assignment of Sublease and Agreement dated as of the date hereof (such assignment being hereinafter called the Sublease Assignment).

Great American, as principal, has delivered or caused to be delivered to the Owner-Trustee, as obligee, a surety bond issued by the Great American Insurance Company, as surety (such Company being hereinafter called the Surety, and such bond being hereinafter called the Bond), with respect to certain obligations of Great American under the Great American Lease.

The Bond provides that, upon the occurrence of certain conditions, if the Owner-Trustee (or its assigns) elects to proceed under the Bond, the Surety may elect to assume (or to have its permitted substitute under the Bond assume) the obligations of Great American under the Great American Lease or, if the Great American Lease has been terminated, to enter into a new lease with the Owner-Trustee pursuant to an Assumption and Assignment Agreement in the form attached to the Bond (such agreement being hereinafter called the Assumption Agreement, and the Great American Lease, the Sublease (together with the Sublease Assignment) and the Assumption Agreement, if executed and delivered by the Owner-Trustee and the Surety or its permitted substitute under the Bond, being hereinafter collectively called the Leases; and the Railroad as sublessee under the Sublease, Great American as lessee under the Great American Lease and the Surety or its permitted substitute under the Bond, in its capacity under the Assumption Agreement, if executed, being hereinafter sometimes individually called a Lessee and collectively the Lessees).

In order to provide security for the obligations of the Owner-Trustee under the Security Document and as an inducement to the Investors to invest in the Conditional Sale Indebtedness as defined in the Security Document, the Owner-Trustee agrees to assign for security purposes its rights in, to and under the Leases and the Bond to the Agent.

NOW, THEREFORE, in consideration of the payments to

be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 10 hereof, the Owner-Trustee hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment and performance of the Owner-Trustee's obligations under the Security Document, all the Owner-Trustee's right, title and interest, powers, privileges, and other benefits under the Leases and the Bond, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Owner-Trustee from the Lessees under or pursuant to the provisions of the Leases whether as rent, casualty payment, indemnity, liquidated damages, or otherwise, and the immediate right to receive and collect all amounts payable to or receivable by the Owner-Trustee from the Surety under and pursuant to the provisions of the Bond, other than (i) indemnity payments and increases in rental payments under § 6 and § 23 of the Great American Lease and § 6 and § 20 of the Sublease and (ii) payments under the Bond arising with respect to such indemnity payments (all such rights, title, interests, powers, privileges and other benefits, subject to the exclusion of (i) and (ii), being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in any Lease, and to do any and all other things whatsoever which the Owner-Trustee is or may become entitled to do under any Lease or the Bond, including, without limitation, election to proceed under Paragraph 1(b) of the Bond. In furtherance of the foregoing assignment, the Owner-Trustee hereby irrevocably authorizes and empowers the Agent in its own name, or in the name of its nominee, or in the name of the Owner-Trustee or as its attorney, to execute and deliver the Assumption Agreement, to ask, demand, sue for, collect and receive any and all Payments to which the Owner-Trustee is or may become entitled under the Leases and the Bond, and to enforce compliance by the Lessees and Surety with all the terms and provisions thereof.

The Agent agrees to accept for the account of the Owner-Trustee any Payments made by the Lessees or the Surety pursuant to the Leases or the Bond. To the extent received, the Agent will apply such Payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement. If the Agent shall not receive any

rental payment under the first paragraph of § 3 of the Great American Lease or the Sublease or any payment of Casualty Values under § 7 of the Great American Lease or the Sublease when due, the Agent shall promptly notify the Owner-Trustee, the Owner and Great American by telegraphic communication at the address set forth in the Participation Agreement. Failure to so notify the Owner-Trustee, the Owner or Great American shall not affect the rights and remedies of the Agent hereunder or under the Security Document.

2. This Assignment is executed only as security for the obligations of the Owner-Trustee under the Security Document and, therefore, the execution and delivery of this Assignment shall not subject the Agent to, or transfer, or pass, or in any way affect or modify the liability of the Owner-Trustee under the Great American Lease or the Assumption Agreement (if executed and delivered) or of Great American under the Sublease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Owner-Trustee under the Great American Lease and the Assumption Agreement (if executed and delivered) to Great American or the Surety or its permitted substitute under the Bond, as the case may be, and of Great American under the Sublease to the Railroad shall be and remain enforceable by Great American, the Surety or its permitted substitute under the Bond and the Railroad, as the case may be, and their respective successors and assigns, against, and only against, the Owner-Trustee, in the case of the Great American Lease and the Assumption Agreement (if executed and delivered) and Great American, in the case of the Sublease, or persons other than the Agent.

3. To protect the security afforded by this Assignment, subject to the provisions of Paragraph 10 hereof, the Owner-Trustee agrees as follows:

(a) The Owner-Trustee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which each Lease provides are to be performed by the Owner-Trustee; without the written consent of the Agent, the Owner-Trustee will not anticipate the rents under any Lease or waive, excuse, condone, forgive or in any manner release or discharge any Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by any such Lessee which are intended to satisfy the obligations of the Owner-Trustee under the Security Document, includ-

ing, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement so amending, modifying or terminating any Lease and the Owner-Trustee agrees that any such amendment, modification or termination thereof without such consent shall be void.

(b) Should the Owner-Trustee fail to make any payment or to do any act which this Assignment requires the Owner-Trustee to make or do, then the Agent, but without obligation so to do, after first making written demand upon the Owner-Trustee and affording the Owner-Trustee a reasonable period of time within which to make such payment or do such act, but without releasing the Owner-Trustee from any obligation hereunder, may make or do the same in such manner and to such extent as the Agent may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Agent, and also the right to perform and discharge each and every obligation, covenant and agreement of the Owner-Trustee contained in any Lease; and in exercising any such powers, the Agent may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Owner-Trustee will reimburse the Agent for such costs, expenses and fees; provided, however, that the obligations of the Owner-Trustee to make reimbursements under this Paragraph 3 are subject to the last paragraph of Article 4 of the Security Document.

4. Subject to the provisions of Paragraph 10 hereof, the Owner-Trustee does hereby constitute the Agent the Owner-Trustee's true and lawful attorney, irrevocably, with full power (in the name of the Owner-Trustee, 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 Leases and the Bond to which the Owner-Trustee is or may become entitled, to enforce compliance by the Lessees and the Surety with all the terms and provisions of the Leases and the Bond, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Agent may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Owner-Trustee's obligations under the Security Document and Participation Agreement, this Assignment and all rights herein assigned to the Agent shall terminate, and all estate, right, title and interest of the Agent in and to the Leases and the Bond shall revert to the Owner-Trustee without further act or deed, but the Agent shall execute and deliver such documents as the Owner-Trustee may reasonably request in order to confirm, or make clear upon public records, such termination and/or reversion.

6. The Owner-Trustee will, from time to time, do and perform any other act and will execute, acknowledge, and deliver any and all further instruments required by law or reasonably requested by the Agent in order to confirm or further assure the interests of the Agent hereunder.

7. The Agent may assign all or any of the rights assigned to it hereby or arising under the Leases and the Bond, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder. The Agent will give written notice to the Owner-Trustee and each Lessee of any such assignment.

8. This Assignment shall be governed by the laws of the State of Utah, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

9. The Owner-Trustee shall cause copies of all notices received in connection with the Leases and the Bond and all payments thereunder to be promptly delivered or made to the Agent at its address set forth in Article 20 of the Security Document, or at such other address as the Agent shall designate.

10. The Agent hereby agrees with the Owner-Trustee that (i) so long as no event of default, or any event which with lapse of time or notice or both would constitute such an event of default, under the Security Document has occurred and is then continuing, the Agent will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Owner-Trustee to the

Agent by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, the right to execute and deliver the Assumption Agreement as attorney for the Owner-Trustee as provided in Paragraph 1 hereof and the right to elect to proceed under the Bond pursuant to Paragraph 1(b) thereof, that (ii) subject to the terms of the Leases, the Bond and the Security Document, the Owner-Trustee may, so long as no event of default or event which with notice or lapse of time or both would constitute such an event of default under the Security Document has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges, and remedies arising out of subparagraph (a) of the first paragraph of § 10 of the Great American Lease and the Sublease and that (iii) if an Event of Default under the Great American Lease constituting a Bonded Default under the Bond shall have occurred and be continuing, the Agent shall, within ten days of receipt of the written request of the Owner-Trustee so to do, give the required notice to the Surety of election to proceed under the Bond pursuant to Paragraph 1(b) thereof and, if the Agent shall fail to do so, the Owner-Trustee may give such required notice; provided, however, the Owner-Trustee shall not, without the prior written consent of the Agent, terminate any Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of subparagraph (b) of said § 10.

11. No recourse shall be had in respect of any obligation due under this Assignment, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Owner-Trustee, the Agent, any Investor or the Owner, 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, or beneficiaries being forever released as a condition of and as consideration for the execution of this Assignment.

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 Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by the Owner-Trustee, or for the purpose or with the inten-

tion of binding the Owner-Trustee personally but are made and intended for the purpose of binding only the Trust Estate (as defined in the Trust Agreement) and this Assignment is executed and delivered by the Owner-Trustee solely in the exercise of the powers expressly conferred upon the Owner-Trustee as Owner-Trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Owner-Trustee or the Owner on account of any representation, undertaking or agreement hereunder of the Owner-Trustee, or the Owner, either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 of the Security Document and subparagraph (a) of the third paragraph of Article 4 of the Security Document; all such personal liability, if any, being expressly waived and released by the Agent and by all persons claiming by, through or under the Agent; provided, however, that the Agent or any person claiming by, through or under the Agent, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names, by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by

_____
Authorized Officer

[CORPORATE SEAL]

Attest:

_____
Authorized Officer

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity,
but solely as Agent,

by

_____
Authorized Officer

[SEAL]

Attest:

_____
Authorized Officer

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and 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.

Notary Public

[NOTARIAL SEAL]

My Commission Expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its By-laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Notary Public

[NOTARIAL SEAL]

My Commission Expires

LESSEE'S (GREAT AMERICAN'S) CONSENT AND AGREEMENT

The undersigned, GAMS TRANSPORTATION, INC., a corporation duly incorporated under the laws of the State of Ohio, the Lessee named in the Great American Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement (hereinafter called the Assignment), and the Sublessor named in the Sublease and Sublease Assignment referred to in the Assignment (hereinafter collectively called the Sublease) hereby acknowledges receipt of a copy of the Assignment, consents to all the terms and conditions of the Assignment and agrees:

(1) subject to the terms and conditions of the Assignment, to pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease and assigned to the Agent by the Assignment (which moneys are hereinafter called the Payments) due and to become due to First Security State Bank, not in its individual capacity, but solely as Owner-Trustee for General Electric Credit Corporation (hereinafter called the Owner-Trustee) under the Lease in respect of the Units leased thereunder, directly to the First Security Bank of Utah, N.A., as agent (hereinafter called the Agent) under the Participation Agreement referred to in the Assignment, to be applied as provided in the first paragraph of Paragraph 10 of the Participation Agreement, to its address at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) subject to the terms and conditions of the Assignment, that the Agent 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 and the Sublease as though the Agent were named therein as the Owner-Trustee and the Sublessor, respectively;

(3) that the Agent shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease, the Sublease or otherwise;

(4) that neither the Lease nor the Sublease (except as permitted under the Sublease Assignment referred to in the foregoing Assignment) shall, without the prior written consent of the Agent, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in any alteration or impairment of the obligations of Great American under the Lease or the Sublease which are intended to satisfy the obligations of the Owner-Trustee under the Security Document, the obligations of the Owner-Trustee under the Assignment or the obligations of Great American under this Consent and Agreement or of any of the rights created by any thereof; and

(5) that it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Security Document and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Consent and Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Ohio and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of July 20, 1979

GAMS TRANSPORTATION, INC.,

by

_____
Authorized Officer

[CORPORATE SEAL]

Attest:

_____
Authorized Officer

Accepted:

FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity, but solely as agent under the Participation Agreement referred to above,

by

_____
Authorized Officer

[SEAL]

Attest:

_____
Authorized Officer

LESSEE'S (RAILROAD'S) CONSENT AND AGREEMENT

On March 17, 1975, the Chicago, Rock Island and Pacific Railroad Company, Debtor, filed a petition for reorganization under Section 77 of the Bankruptcy Act in the United States District Court for the Northern District of Illinois and such petition was duly approved as properly filed by order entered on such date by such Court and on April 4, 1975, the undersigned William M. Gibbons was duly qualified as Trustee of the Property of the Chicago, Rock Island and Pacific Railroad Company, Debtor. The undersigned, the Sublessee named in the Sublease and Sublease Assignment and Consent and Agreement attached thereto referred to in the foregoing Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement (hereinafter called the Assignment and the Sublease, the Sublease Assignment, and the Consent and Agreement attached thereto being hereinafter collectively called the Sublease), hereby acknowledges receipt of a copy of the Assignment, consents to all the terms and conditions of the Assignment and agrees that:

(1) subject to the terms and conditions of the Assignment, to pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Sublease and assigned to the Agent by the Assignment (which moneys are hereinafter called the Payments) due and to become due to the First Security State Bank, not in its individual capacity, but solely as Owner-Trustee for General Electric Credit Corporation (hereinafter called the Owner-Trustee) under the Lease, or to GAMS Transportation, Inc. (hereinafter called the Sublessor), under the Sublease, in respect of the Units leased thereunder, directly to the First Security Bank of Utah, N.A., as agent (hereinafter called the Agent) under the Participation Agreement referred to in the Assignment, to be applied as provided in the first paragraph of Paragraph 10 of the Participation Agreement, to its address at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) subject to the terms and conditions of the Assignment, that the Agent 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 Sublease as though the Agent were named therein as the Sublessor;

(3) the Agent shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Sublease or otherwise;

(4) if an Event of Default or an event which with notice or lapse of time or both would constitute such an Event of Default under the Lease referred to in the foregoing Assignment shall have occurred and be continuing, the Sublease shall not, without the prior written consent of the Agent, be amended, terminated (other than pursuant to the second paragraph of § 4 thereof) or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in any alteration or impairment of the obligations of the undersigned under the Sublease which are intended to satisfy the obligations of the Owner-Trustee under the Security Document, the obligations of the Owner-Trustee under the Assignment, the obligations of the Sublessor under the Sublease Assignment or the obligations of the undersigned under this Consent and Agreement or of any of the rights created by any thereof; and

(5) it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Security Document and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Consent and Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of

Illinois and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of July 20, 1979

WILLIAM M. GIBBONS,

_____ [Seal]
As TRUSTEE OF THE PROPERTY
OF CHICAGO, ROCK ISLAND AND
PACIFIC RAILROAD COMPANY,
and not individually

Witness:

_____

Accepted:

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity
but solely as agent under
the Participation Agreement
referred to above,

by

_____
Authorized Officer

[SEAL]

Attest:

_____
Authorized Officer

SURETY'S CONSENT AND AGREEMENT

The undersigned, GREAT AMERICAN INSURANCE COMPANY, a corporation duly incorporated under the laws of the State of Ohio, the Surety named in the Bond (hereinafter called the Bond) referred to in the foregoing Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement (hereinafter called the Assignment), and the party which may execute and deliver the Assumption Agreement referred to in the foregoing Assignment, hereby acknowledges receipt of a copy of the Assignment, consents to all the terms and conditions of the Assignment and agrees:

(1) subject to the terms and conditions of the Assignment, to pay or cause to be paid all payments, rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Assumption Agreement (if executed and delivered) and the Bond and assigned to the Agent by the Assignment (which moneys are hereinafter called the Payments) due and to become due to First Security State Bank, not in its individual capacity, but solely as Owner-Trustee for General Electric Credit Corporation (hereinafter called the Owner-Trustee) under the Bond and the Assumption Agreement (if executed and delivered), directly to the First Security Bank of Utah, N.A., as agent (hereinafter called the Agent) under the Participation Agreement referred to in the Assignment, to be applied as provided in the first paragraph of Paragraph 10 of the Participation Agreement, to its address at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) subject to the terms and conditions of the Assignment, that the Agent 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 Bond and the Assumption Agreement (if executed and delivered) as though the Agent were named therein as the Owner-Trustee;

(3) that the Agent shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Bond or

the Assumption Agreement (if executed and delivered) or otherwise;

(4) that neither the Bond nor the the Assumption Agreement (if executed and delivered) shall, without the prior written consent of the Agent, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in any alteration or impairment of the obligations of the Surety under the Bond or the Assumption Agreement (if executed and delivered);

(5) that it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Bond and the Assumption Agreement (if executed and delivered) and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof; and

(6) that if the Assumption Agreement is executed by its substitute permitted under the Bond, it will cause such substitute to execute and deliver a Consent and Agreement containing terms substantially similar to the terms of this Consent.

This Consent and Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Ohio and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of July 20, 1979

GREAT AMERICAN INSURANCE COMPANY,

by

_____
Authorized Officer

[CORPORATE SEAL]

Attest:

_____
Authorized Officer

Accepted:

FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as agent under the Participation Agreement referred to above,

by _____
Authorized Officer

[SEAL]

Attest:

_____
Authorized Officer

LEASE OF RAILROAD EQUIPMENT

Dated as of July 20, 1979

between

GAMS TRANSPORTATION, INC.,

as Lessee

and

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely as Owner-Trustee for
GENERAL ELECTRIC CREDIT CORPORATION,

as Lessor

TABLE OF CONTENTS

		Page
PREAMBLE		L-1
§ 1.	Net Lease	L-2
§ 2.	Delivery and Acceptance of Units	L-3
§ 3.	Rentals	L-4
§ 4.	Term of Lease	L-6
§ 5.	Identification Marks	L-6
§ 6.	Taxes	L-7
§ 7.	Payment for Casualty Occurrences; Insurance	L-11
§ 8.	Reports	L-15
§ 9.	Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification	L-16
§ 10.	Default	L-22
§ 11.	Return of Units Upon Default	L-28
§ 12.	Assignment; Possession and Use	L-29
§ 13.	Renewal Options and Limited Right of Purchase	L-31
§ 14.	Return of Units upon Expiration of Term	L-35
§ 15.	Recording	L-38
§ 16.	Additional Opinions	L-38
§ 17.	Obligations of Owner-Trustee Under Security Document; Additional Rentals	L-39
§ 18.	Owner-Trustee's Right To Perform for the Lessee	L-39
§ 19.	Interest on Overdue Rentals	L-39

Page

§ 20. Notices L-39

§ 21. Owner-Trustee Acting as Trustee L-40

§ 22. No Recourse L-40

§ 23. Federal Income Taxes L-41

§ 24. Severability; Effect and Modification of Lease; Third Party Beneficiaries L-51

§ 25. Execution L-51

§ 26. Law Governing L-52

§ 27. Agreement for Benefit of the Owner L-52

TESTIMONIUM L-52

SIGNATURES L-52

ACKNOWLEDGMENTS L-53

SCHEDULE A L-54

SCHEDULE B L-55

LEASE OF RAILROAD EQUIPMENT dated as of July 20, 1979, between GAMS TRANSPORTATION, INC., an Ohio corporation (hereinafter called the Lessee), and FIRST SECURITY STATE BANK, a Utah corporation, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement), with GENERAL ELECTRIC CREDIT CORPORATION, a New York corporation (hereinafter called the Owner).

The Owner-Trustee has entered or will enter into a conditional sale agreement (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), pursuant to which the Owner-Trustee has agreed or will agree to purchase and take delivery of the railroad equipment described in Schedule A hereto (hereinafter called the Equipment).

The Builder is assigning its interests in the Security Document pursuant to an Agreement and Assignment (hereinafter called the Assignment) to First Security Bank of Utah, N.A., acting as Agent (hereinafter together with its successors and assigns called the Vendor), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessee, William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company (hereinafter called the Sublessee), the Owner-Trustee, the Owner and the party or parties named in Schedule A thereto (hereinafter called the Investors).

The Lessee agrees to lease from the Owner-Trustee all the units of the Equipment (or such lesser number of units as are delivered and accepted and settled for under the Security Document) at the rentals and for the term and upon the conditions hereinafter provided (each such unit so leased being hereinafter called a Unit).

To assure payment of certain of its obligations under this Lease, the Lessee, as principal, agrees to deliver or cause to be delivered to the Owner-Trustee, as obligee, a Surety Bond (hereinafter called the Bond), issued by

Great American Insurance Company, as surety (hereinafter called the Surety), and a form of Assumption and Assignment Agreement (hereinafter called the Assumption Agreement) to be entered into between the Surety (or its substitute permitted under the Bond) and the Owner-Trustee, if the Surety so elects, being attached as an exhibit thereto, substantially in the forms thereof approved by the Investors, the Vendor and the Owner-Trustee prior to the execution of this Lease.

The Lessee intends to sublease the Units pursuant to a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease) with the Sublessee, and to assign the Sublease to the Owner-Trustee pursuant to an Assignment of Sublease and Agreement dated as of the date hereof (hereinafter called the Sublease Assignment) and the Sublessee will consent to the Sublease Assignment pursuant to a Consent and Agreement substantially in the form attached thereto (hereinafter called the Sublease Assignment Consent).

The Owner-Trustee will assign certain of its rights under this Lease, the Bond, the Sublease and the Sublease Assignment as security to the Vendor pursuant to an Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement dated as of the date hereof (hereinafter called the Lease Assignment) and each of the Lessee, the Surety and Sublessee will consent to the Lease Assignment pursuant to a Consent and Agreement substantially in the form attached thereto (hereinafter collectively called the Consents).

NOW, THEREFORE, in consideration of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Owner-Trustee hereby agrees to lease 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, except as herein provided, the Lessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions, counterclaims or setoffs due or alleged to be due by reason of

any past, present or future claims of the Lessee against the Owner-Trustee or the Owner, whether under this Lease, under the Security Document or otherwise, including the Lessee's rights by subrogation hereunder or thereunder against the Owner-Trustee or the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Owner-Trustee or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or 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 Owner-Trustee, the Owner or the Vendor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Owner-Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Document; provided, however, that such acceptance shall be in accordance with the provisions of Article 3 of the Security Document. Each delivery of a Unit to the Owner-Trustee under the Security Document shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Owner-Trustee under the Security Document. Upon delivery of such Unit, the Lessee will cause an employee or agent of

the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Owner-Trustee under the Security Document and itself hereunder and to execute and deliver to the Owner-Trustee a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Document, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Owner-Trustee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next 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 delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the Security Document pursuant to the second paragraph of Article 3 or the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such Unit to this Lease. The Lessee hereby represents and warrants to the Owner-Trustee that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Lessee or its agent as agent for the Owner-Trustee hereunder.

§ 3. Rentals. With respect to each Unit subject to this Lease, the Lessee will pay to the Owner-Trustee as (i) basic rentals 74 consecutive quarterly payments, payable on January 15, April 15, July 15 and October 15 in each year, commencing July 15, 1980, and (ii) interim rental one payment on April 15, 1980. The first 68 quarterly rental payments shall each be in an amount equal to 2.5252% of the Purchase Price (as defined in the Security Document) of each Unit subject to this Lease on the date of such payment and the last six quarterly rental payments shall each be in an amount equal to 1.5126% of the Purchase Price of each Unit subject to this Lease on the date of such payment. The interim rental payment shall be in an amount equal to the product of the Purchase Price of each Unit subject to this Lease on the date of payment multiplied by .027083% for each day elapsed from and including the Closing Date (as defined in the Security Document) for such Unit to, but excluding, April 15, 1980. In the event that there is any deficiency amount required to be paid by the Owner-Trustee pursuant to the first paragraph of Paragraph 9 of the Participation Agreement, the rentals thereafter payable by the Lessee in respect of the Units shall be increased by such amount as shall, in the reasonable opinion of the Owner, cause the Owner's after-tax economic yield (computed on the same

assumptions, including tax rates, and utilizing the same methods as were utilized by the Owner in originally evaluating the transaction contemplated by the Participation Agreement) to equal the after-tax economic yield (such economic yield hereinafter called the Net Economic Return) that would have been realized by the Owner if such liability had not occurred.

In addition to the foregoing basic rentals, the Lessee will pay to the Owner-Trustee the following additional rentals: (i) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (a) of the last paragraph of Paragraph 9 of the Participation Agreement, (ii) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (b) of the last paragraph of Paragraph 9 of the Participation Agreement and (iii) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to the third paragraph of Paragraph 10 of the Participation Agreement, in each case on such date as will enable the Owner-Trustee to make such payment.

If any of the quarterly rental payment dates referred to above is not a Business Day (as such term is defined in the Security Document) the quarterly rental payment otherwise payable on such date shall then be payable on the next succeeding Business Day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next succeeding Business Day.

The Owner-Trustee irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments (other than payments under § 6 and § 23 hereof) due the Owner-Trustee provided for in this Lease including, but not limited to, all payments provided for in this § 3 and in § 7 hereof, (i) for so long as the Security Document shall remain in effect, to the Vendor, for the account of the Owner-Trustee, in immediately available funds at or prior to 11 a.m. (Salt Lake City time) to the office of the Vendor (at 79 South Main Street, Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department) on the date due, with instructions to the Vendor to apply such payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement, and (ii) if the Security Document shall no longer be in effect, to the Owner-Trustee or as directed by the Owner-Trustee in immediately available funds at such place as the Owner-Trustee shall specify in writing.

§ 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 October 15, 1998. Except for obligations of the Lessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9, 11, 14, 19 and 23 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 Vendor under the Security Document. If an event of default should occur under the Security Document as provided in § 10(D) hereof, the Vendor may terminate this Lease (or rescind its termination) and/or the Sublease (or rescind its termination) or any other sublease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Lessee will cause 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 or cause to be kept and maintained, 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 WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Owner-Trustee's title to and the Vendor's security interest in such Unit and the rights of the Owner-Trustee under this Lease and of the Vendor under the Security Document. The Lessee will not place or permit any such Unit to be placed 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 or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Lessee will not change or permit to be changed 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 Vendor and the Owner-

Trustee and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Owner-Trustee an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Owner-Trustee's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Owner-Trustee in such Units.

Except as above provided, 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; provided, however, that the Lessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Sublessee, so long as the Sublease shall remain in effect, or any other sublessee of the Equipment permitted by § 12 hereof, so long as a sublease with such sublessee shall remain in effect, or their respective affiliates, on railroad equipment used by them of the same or a similar type for convenience of identification of their respective rights to use the Equipment under the Sublease or such other sublease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Sublessee or such other sublessee therein.

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees to pay or cause to be paid, and on written demand to indemnify and hold the Owner-Trustee, the Owner, the Builder, the Vendor, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under the Security Document and the Participation Agreement harmless from all taxes (income, gross receipts, franchise, sales, use, property [real or personal, tangible or intangible], stamp and minimum [imposed under Section 56 of the Internal Revenue Code of 1954, as amended] taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Owner-

Trustee, the Owner, the Builder, the Vendor, the Investors, the Sublessee, the Lessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under the Security Document and the Participation Agreement, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; this Lease, the Lease Assignment, the Consents, the Sublease, the Sublease Assignment, the Sublease Assignment Consent, the Trust Agreement, the Participation Agreement (including the certificates of interest and the issuance thereof to Investors pursuant thereto), the Security Document, the Bond, the Assumption Agreement or the Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Security Document and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States or of any state or local government or governmental subdivision or authority thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Owner-Trustee (in its individual capacity), the Owner, the Investors, the Builder or the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease or the Sublease, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Lease or the Sublease shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Owner or any transfer or disposition

by or on behalf of the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease, without the consent of the Lessee, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence or an Event of Default shall have occurred and be continuing; (iii) any Taxes imposed on or measured by any trustee or agency fees received by the Owner-Trustee or the Vendor; and (iv) Taxes which are imposed on or measured solely by the net income of the Owner-Trustee or the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Lessee has not agreed to pay or indemnify against pursuant to this § 6; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting or causing to be contested the same in the manner provided in the fourth paragraph of this § 6. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or local government or governmental subdivision thereof, or of any foreign country or subdivision or authority thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Lessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

The amount which the Lessee shall be required to pay with respect to any Taxes indemnified against pursuant to this § 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

In the event that the Owner-Trustee shall become obligated to make any payment to the Builder, Investors, the Vendor or the estate held by the Vendor under the Security Document and the Participation Agreement pursuant to Article 6

of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, not covered by the first paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Owner-Trustee or the Owner as will enable the Owner-Trustee or the Owner to fulfill completely its obligations pursuant to said provisions. The Owner-Trustee agrees not to enter into any amendment of the Security Document or the Trust Agreement which would adversely affect the interest of the Lessee under this Lease without the written consent of the Lessee.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, or cause to be contested, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party, which consent shall not be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such indemnified party shall pay to the Lessee the amount of such refund or interest net of expenses, but only if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing.

In case any report or return is required to be made

with respect to any obligation of the Lessee under this § 6 or arising out of this § 6, except obligations resulting from the second sentence of the first paragraph of this § 6, the Lessee shall either make or cause to be made such report or return in such manner as will show the interests of the Owner-Trustee and the Vendor in the Units, or shall promptly notify or cause to be notified the Owner-Trustee, the Owner and the Vendor of such requirement and shall make or cause to be made such report or return in such manner as shall be satisfactory to the Owner-Trustee, the Vendor and the Owner. All costs and expenses (including reasonable legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

All the obligations of the Lessee under this § 6 shall survive and continue, notwithstanding payment in full of all amounts due under the Security Document or the termination of this Lease, but only with respect to periods included in the term of this Lease. Payment due from the Lessee under this § 6 shall be made directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

The Lessee shall furnish or cause to be furnished promptly, upon request, such information and data as are normally available to the Lessee and which the Owner-Trustee, the Vendor or the Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§ 7. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee, the Sublessee or any other sublessee permitted under § 12 hereof for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease (such occurrences being hereinafter called Casualty Occurrences), during the term of this Lease, or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Lessee shall

promptly and fully notify or cause to be notified (after the Lessee, the Sublessee or any sublessee permitted under § 12 hereof has knowledge of such Casualty Occurrence) the Owner-Trustee, the Owner and the Vendor with respect thereto. On the rental payment date (not earlier than the first regular quarterly rental payment date) next succeeding the delivery of such notice (or, in the event such rental payment date will occur within 15 days after delivery of notice, on the following rental payment date, or, in the event the term of this Lease has already expired or will expire within 15 days after delivery of such notice, on a date within 15 days of such delivery), the Lessee shall pay or cause to be paid to the Owner-Trustee 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 of such Unit as of such payment date (such rental payment date being hereinafter called the Calculation Date). Upon the making of such payment by or on behalf of the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Owner-Trustee shall be entitled to recover possession of such Unit.

If the date upon which the making or causing to be made of such payment by the Lessee in respect of any Unit as required as aforesaid shall be after the term of this Lease in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term but the Lessee, in addition to paying the Casualty Value for such Unit shall pay or cause to be paid interest thereon from the end of such term to the date of such payment at the greater of (i) the prime rate of interest which Manufacturers Hanover Trust Company charges on the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing and (ii) 10.75% per annum.

The Owner-Trustee hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Owner-Trustee and no Event of Default hereunder, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to retain the proceeds of such sale to the extent they do not

exceed the Casualty Value of such Unit, and shall pay any excess to the Owner-Trustee. If any such Event of Default or event has occurred and is continuing, the Lessee shall promptly pay all such proceeds to the Owner-Trustee.

The Casualty Value of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of each Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in § 23 hereof). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

In the event of the requisition for use of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall constitute 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 at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Owner-Trustee pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return rather than at the end of the term of this Lease; 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 Owner-Trustee or the Lessee from the requisitioning authority for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing; and all payments received by the Owner-Trustee or the Lessee from the requisitioning authority for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Owner-Trustee.

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 prior to the return of the Equipment to the Owner-Trustee in accordance with the terms of this Lease (including the storage period provided under §§ 11 and 14 hereof), maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Units at the time subject hereto, 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 Sublessee or any other sublessee permitted by § 12 hereof on similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $10,000,000 (with a deductible of not greater than $1,000,000) per occurrence. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee, the Lessee, the Surety, the Sublessee and any other sublessee permitted under this Lease as their respective interests may appear.

The Lessee will, at all times prior to the return of the Equipment to the Owner-Trustee in accordance with the terms of this Lease, at its own expense, carry and maintain or cause to be carried and maintained public liability insurance, naming the Owner, the Surety, the Owner-Trustee and the Vendor as additional named insureds as their respective interests may appear, 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 Sublessee or any other sublessee permitted by § 12 hereof in respect of similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $29,000,000 (with a deductible of not greater than $2,000,000) per occurrence; provided, further, in the case of any other such sublessee, the form of insurance, amounts of coverage, risks insured against and underwriters shall be subject to the prior approval of the Owner, which approval shall not be unreasonably withheld. Any policy of insurance carried in accordance with this paragraph shall not provide for any payment of premiums or commissions by the Owner, the Owner-Trustee, or the Vendor.

The Lessee shall obtain from each insurer under the two paragraphs immediately above an agreement, by endorsement or separate instrument, that such insurer will give the

Owner-Trustee, the Owner, the Surety and the Vendor 30 days' written notice before such insurer's policy shall be materially altered or canceled or not renewed. On or prior to the delivery and acceptance of any Unit hereunder and under the Security Document, and in January of each year, the Lessee shall deliver to the Owner-Trustee, the Owner, the Surety and the Vendor a certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1980, the Lessee will furnish or cause to be furnished to the Owner-Trustee, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Owner-Trustee or the Vendor may reasonably request prepared by an independent qualified engineer who may be the chief mechanical officer of the Sublessee or any other employee of the Sublessee and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and the Security Document have been preserved or replaced. The Owner-Trustee shall have the right by its agents to inspect the Units and the Lessee's and its agent's records with respect thereto at such reasonable times as the Owner-Trustee may request during the continuance of this Lease.

The Lessee agrees at its expense to prepare and deliver or cause to be prepared and delivered to the Owner-Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Owner-Trustee) any and all reports (other than income tax returns) to be filed by the Owner-Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Owner-Trustee or the Vendor of the Units or the leasing thereof to the Lessee or the subleasing thereof to

the Sublessee or any other sublessee permitted by § 12 hereof.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. NEITHER THE OWNER-TRUSTEE NOR THE OWNER MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE OWNER-TRUSTEE NOR THE OWNER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF 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 OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Owner-Trustee and the Lessee, are to be borne by the Lessee; but the Owner-Trustee hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Owner-Trustee and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Owner-Trustee may have against the Builder. The Owner-Trustee and the Owner shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance 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 Owner-Trustee that the Units described therein are in all the foregoing respects satisfactory to the Lessee; and the Lessee will not assert any claim of any nature whatsoever against the Owner-Trustee or the Owner based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Owner-Trustee, the Owner and the Vendor, to comply and to cause

the Sublessee and any other sublessee to comply with in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all the laws of the jurisdiction in which its, the Sublessee's or any other sublessee's operations involving the Unit may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will or will cause the Sublessee or any other sublessee to fully conform therewith at no expense to the Owner-Trustee or the Vendor; provided, however, that the Lessee may upon written notice to the Owner-Trustee and the Vendor, in good faith, contest or cause to be contested the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Owner-Trustee or the Vendor, adversely affect the property or rights of the Owner-Trustee or the Vendor, respectively, under this Lease or under the Security Document.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an Addition thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and, in any event, in the condition that will permit such Unit to qualify as a box car of "XF Class" as defined, as of July 20, 1979, by the Association of American Railroads; provided, however, that the Lessee shall not be required to keep any Unit in actual "XF" service.

The Lessee and its affiliates, at their own cost and expense, may from time to time make or permit the Sublessee or any other sublessee permitted under § 12 hereof to make such alterations, modifications and additions (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the United States Department of Transportation, the Interstate Commerce Commission or any other legislative,

executive, administrative or judicial body exercising any power or jurisdiction over such Unit) (hereinafter collectively called Additions) to the Units as the Lessee may deem desirable in the proper conduct of its or any sublessee's business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease; provided, however, that no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such addition not been made assuming the Unit was then in the condition required to be maintained by the terms of this Lease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Owner-Trustee and be subject to a valid first lien and prior perfected security interest under the Security Document in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for, any such original Part, (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the terms of the second or third paragraph of this § 9 or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee or its sublessees. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Lessee shall pay or cause to be paid, and shall protect, indemnify and hold the Owner-Trustee, the Owner, the Investors and the Vendor (for purposes of this paragraph only, as defined in the Security Document), and their respective successors, assigns, principals, agents and servants (hereinafter called Indemnified Persons), as third party beneficiaries hereof, 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 reasonable 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, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or imposed by statute; (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 Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder) or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Owner-Trustee's obligations under the Lease Assignment, the Security Document or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Owner-Trustee; (viii) any claim arising out of the Vendor's holding a security interest under the Security Document or the Lease Assignment; or (ix) any claim for any service fee, selling fee, purchase fee, finder's fee and/or commission in connection with the Units; excluding,

however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant under the Security Document by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A to the Security Document. All payments hereunder shall be made directly to the Indemnified Person. 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 reasonable 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 reasonable 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 or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Owner-Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any indemnities as contained in this § 9 by the Lessee, and provided that no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing,

the Lessee shall be subrogated to any right of such Indemnified Person 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 such 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 in respect of such matter.

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

In the event that the Owner-Trustee shall become obligated to make any payment to the Investors or the Vendor (for purposes of this paragraph only, as defined in the Security Document) pursuant to Article 13 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, not covered by the foregoing provisions of this § 9, the Lessee shall pay such additional amounts to the Owner-Trustee or the Owner as will enable the Owner-Trustee or the Owner to fulfill completely its obligations pursuant to said provisions; provided, however, no such payment shall be required with respect to payments arising as a result of the gross negligence or wilful misconduct of the Owner-Trustee or the Owner.

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 occur-

ring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Owner-Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of any payment or other obligation, including without limitation the payment of any installments of principal or interest, under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

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

(A) payment of any part of the rental provided in § 3 or § 13 hereof or payment in respect of any Casualty Occurrence pursuant to § 7 hereof shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for 10 business days after such payment is due; or

(B) (x) any representation or warranty of the Lessee contained in the Participation Agreement or herein (except the representations and warranties contained in § 23 hereof) shall have been incorrect in any material respect as of the date when made, unless (i) such misrepresentation or the breach of such warranty has been cured, if curable, within 30 days after written notice thereof to the Lessee from the Owner-Trustee or the Vendor, or (ii) there is no material adverse effect on the rights of the Owner-Trustee, the Owner or the Vendor hereunder resulting from such misrepresentation or breach, or (iii) any damages resulting from such misrepresentation or breach shall have been paid within 30 days after demand therefore, to the satisfaction of the Owner-Trustee, the Owner and the Vendor, or (y) 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 or in the Par-

ticipation Agreement, and such default shall continue for 30 days after written notice from the Owner-Trustee or the Vendor to the Lessee and the Surety specifying the default and demanding that the same be remedied; or

(C) the Lessee shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or any of its properties or assets, (ii) be unable, or admit in writing its inability, to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated a bankrupt or insolvent or (v) file a voluntary petition in bankrutpcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or if corporate action shall be taken by it for the purpose of effecting any of the foregoing; or any proceedings shall be commenced against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease or under the Participation Agreement 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 Participation Agreement), and such proceedings shall continue unstayed and in effect for any period of 60 days; or

(D) an event of default set forth in subparagraph (e) with respect to the Surety, or in subparagraph (g), of Article 15 of the Security Document shall have occurred; or, any other event of default set forth in such Article 15 shall have occurred and either (i) such event results from any default by the Lessee in performing any of its obligations hereunder or under the Participation Agreement or (ii) the Payments (as defined in the Lease Assignment) are not being applied by the Owner-Trustee as provided in Paragraph 1 of the Lease Assignment;

then, in any such case, if the Sublease is then in effect, upon notice by the Owner-Trustee to the Lessee, and without

any other action or consents (i) the participation of the Lessee as sublessor under the Sublease or any other sublease shall be terminated and (ii) the Owner-Trustee shall be substituted for the Lessee, for all purposes, as the sublessor under the Sublease or such other sublease, and, whether or not such notice is given, the Owner-Trustee may 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. The Owner-Trustee, at its option, may, in any such case:

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

(b) by notice in writing to the Lessee terminate this Lease,* whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Owner-Trustee may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Owner-Trustee shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not

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* Notice: termination of this Lease prior to the end of certain periods provided in the Bond may prevent satisfaction of certain conditions precedent to recovery under the Bond.

as a penalty, whichever of the following amounts the Owner-Trustee, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) 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 (2) the then present value of the rentals which the Owner-Trustee reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 8% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Owner-Trustee shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount 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 amount the Owner-Trustee reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Owner-Trustee shall have sold or leased any Unit, the Owner-Trustee, in lieu of collecting any amounts payable to the Owner-Trustee by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Owner-Trustee and the Lessee shall pay to the Owner-Trustee on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such a sale an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale, and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Lease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Owner-Trustee reasonably estimates to be

obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Lease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 8% per annum discount, compounded, in the case of rental which is estimated under clause II of this sentence, quarter-annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

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 Owner-Trustee's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Owner-Trustee 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 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 any offset against the rental payments due hereunder and agrees to make such rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Owner-Trustee to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Owner-Trustee.

The Lessee also agrees to furnish the Owner-Trustee, the Owner, the Surety and the Vendor, promptly upon any responsible officer's becoming aware of any condition which

constitutes an Event of Default, or which with 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 § 10 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 official of the Lessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

The Lessee acknowledges that the Owner-Trustee and the Surety have entered into the Bond which provides that in the event of an Event of Default under this Lease, the Surety or the Surety's substitute permitted under the Bond (references to Surety in this paragraph to mean Surety or the Surety's substitute) shall have the right to assume all the rights and obligations of the Lessee under this Lease and to receive an assignment of this Lease and/or of the Owner-Trustee's rights against the Lessee under this Lease. The Lessee agrees that upon receiving notice of any such assumption from the Surety, it will upon request of the Surety and at the option of the Surety (i) deliver possession of the Units to the Surety and convey, transfer or assign to the Surety as provided in § 11 below as though the Surety were named as the Owner-Trustee therein all the Lessee's right, title and interest in the Sublease and any other subleases, car contracts or other agreements with respect to the Units and take any other action and execute any documents reasonably requested by the Surety or the Owner-Trustee, which such delivery of the Units and conveyance, transfer or assignment shall terminate Lessee's leasehold interest in the Units but shall not release Lessee from any unfulfilled obligations under this Lease or (ii) become the sublessee of the Surety in respect of the Units with the rights and obligations of the Surety and the Lessee being the same as if the Surety had originally been designated as the lessor under this Lease in place of the Owner-Trustee. Lessee further acknowledges and agrees that no payment by Surety or for Surety's account, to the Owner-Trustee, whether under the Bond or pursuant to said assumption or otherwise, shall constitute an amount arising in respect of a sale or lease of the Units of Equipment for purposes of measuring liquidated damages recoverable, whether by Owner-Trustee or the Surety or any other person and whether by subrogation, assignment of rights or otherwise, from the Lessee pursuant to paragraph (b) of this § 10.

§ 11. Return of Units Upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver or cause to be delivered possession of the Units to the Owner-Trustee and shall give or cause to be given prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Owner-Trustee pursuant to this § 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear and modifications, if any, permitted by this Lease excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any Unit or Units to the Owner-Trustee as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Owner-Trustee and there assembled,

(b) furnish and arrange for the Owner-Trustee to store such Units on any lines of railroad or premises approved by the Owner-Trustee until such Units have been sold, leased or otherwise disposed of by the Owner-Trustee, and

(c) cause the Units to be moved to such interchange point or points as shall be designated by the Owner-Trustee upon any sale, lease or other disposal of all or any of the Units.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee (and the Lessee will maintain the insurance required by § 7 of this Lease to be maintained during this period) and are of the essence of this Lease; and, upon application to any court of equity having jurisdiction in the premises, the Owner-Trustee 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 Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of any such Unit, to

inspect the same. In the event that the Units or any thereof are sold, the Lessee shall pay to the Owner-Trustee the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Owner-Trustee as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Owner-Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time and to give all appropriate notices and directions to the Association of American Railroads to change the registration of such Unit from the Lessee or the Sublessee to the Owner-Trustee or as the Owner-Trustee may direct.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Owner-Trustee without the consent of the Lessee; but the Lessee shall be under no obligation to any assignee of the Owner-Trustee other than the Vendor except upon written notice of such assignment from the Owner-Trustee. All the rights of the Owner-Trustee hereunder (including, but not limited to, the rights under §§ 6, 7, 10 and 23 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Owner-Trustee's successors and assigns, including the Vendor, except to the extent the same may be reserved to the Owner-Trustee.

So long as no Event of Default hereunder shall have occurred, the Lessee shall be entitled to the possession of the Units in accordance with the terms of this Lease but, except pursuant to the Sublease or as permitted by the provisions of the following two paragraphs, 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 as permitted by the provisions of the following two paragraphs and other than an encumbrance created by the Owner, the Owner-Trustee or the Vendor and not the result of an Event of Default or resulting from claims against the Owner, the

Owner-Trustee or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Owner-Trustee, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor and the Owner-Trustee, materially adversely affect the interest of the Vendor or the Owner-Trustee in the Equipment, the Vendor's interest in the income and proceeds from the Equipment, or otherwise under this Lease or the Security Document. Except pursuant to the Sublease and except to the extent permitted by the provisions of the following two paragraphs, the Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units.

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 hereof and to permit the use of the Units by the Sublessee or by a railroad company or companies incorporated in the United States of America with which the Sublessee has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights or over which railroad equipment of such railroad company or companies 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, the Sublease and the Security Document; provided, however, that the Lessee shall not assign, sublease or permit the assignment, sublease or use of any Unit predominantly outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), nor shall the Lessee assign or sublease to, or permit the sublease or use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of the Code. The Lessee and the Sublessee may receive and retain compensation for such use from other railroads so using any of the Units.

Upon termination of the Sublease, if the Lessee shall not be in default under this Lease, the Lessee may sublease the Units to or otherwise enter into agreements (any such sublease or agreement being herein called a sublease) for the use of the Units by a railroad company or companies or other user of rolling stock, provided that (i) the sublease shall contain provisions similar to §§ 3 (fourth paragraph), 4 (fourth paragraph), 10(E) and 12 (proviso in the third paragraph) of the Sublease and such sublease shall not have a term (together with renewal options) beyond the term of this Lease (together with renewal options), (ii) such sublease shall be assigned to the Owner-Trustee under an assignment and agreement substantially in the form of the Sublease Assignment (together with a Consent and Agreement of the sublessee in the form attached thereto) and, if the Security Document is still in effect, assigned by the Owner-Trustee to the Vendor under an assignment and agreement substantially in the form of the Lease Assignment (together with a Consent and Agreement of the sublessee in the form attached thereto) and (iii) the sublease shall not contain any provisions which would, or the performance of which would, with notice or lapse of time or both, result in an Event of Default under this Lease.

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

§ 13. Renewal Options and Limited Right of Purchase. The Owner-Trustee intends to retain the Units for re-lease at the expiration of the term of this Lease. 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 Owner-Trustee not less than six months prior to the end of the original term of this Lease elect to extend the term of this Lease in respect of

all, but not fewer than all, the Units then covered by this Lease for one additional three-and-one-half-year period commencing on the scheduled expiration of the original term of this Lease, at a quarterly rental equal to the sum of (i) 1.0126% of the Purchase Price of each Unit subject to this Lease on the date such rental is payable and (ii) the quarterly premium on the Bond as provided therein; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Lease.

Provided that this Lease has not been earlier terminated, the Lessee is not in default hereunder, the Lessee has not elected to extend this Lease under the first paragraph of this § 13, the Sublease has not been earlier terminated, the Sublease has been extended as provided in the first paragraph of § 13 thereof and the Sublessee is not in default thereunder, the Sublessee may, as third-party beneficiary hereof, by written notice delivered to the Owner-Trustee not more than six nor less than four months prior to the end of the original term of this Lease elect, on its own behalf, subject to the approval of the then credit standing of the Sublessee by the Owner, which approval shall not be unreasonably withheld, to extend the term of this Lease and assume the obligations of the Lessee hereunder for one additional three-and-one-half-year period commencing on the scheduled expiration of the original term of this Lease at a quarterly rental rate equal to the Rock Island Fair Market Rental Value (as defined below) of each Unit then subject to this Lease; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of such three-and-one-half-year term. Any such election, extension and assumption of the Lease pursuant to this paragraph by the Sublessee shall be in its own capacity (and not as agent for the Lessee) and the Owner-Trustee agrees that the Lessee shall not be a party to or liable for any obligations arising under this Lease during such extension and hereby releases the Lessee with respect to any such obligations.

Provided the Lessee exercises the renewal option provided in the first paragraph of this § 13, and 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 Owner-Trustee not less than six months prior to the end of the original term of this Lease, as extended pursuant to the first paragraph of this § 13,

elect to extend the term of this Lease in respect of all, but not fewer than all, the Units then covered by this Lease for one additional five-year period commencing on the scheduled expiration of the term of this Lease (as so extended), at a quarterly rental rate equal to the Fair Market Rental Value of each Unit then subject to this Lease; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Lease.

"Fair Market Rental Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing lessee-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to so further extend the term of this Lease pursuant to the third paragraph of this § 13, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value of the Units, such value shall be determined in accordance with the foregoing definition by the following appraisal procedure: If either party to such determination shall have given written notice to the other requesting determination of such value 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 prior to the expiration of the original term of this Lease, as extended pursuant to the first paragraph of this § 13. 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, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall be

final and binding upon 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 by the Lessee.

"Rock Island Fair Market Rental Value" shall be determined on the basis of the value which would be obtained as of the commencement of the renewal period referred to in the second paragraph of this § 13 in an arm's length transaction between an informed and willing lessee-user with a credit standing comparable to the credit standing of the Sublessee at the commencement of such period (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease. If, after 60 days from the giving of notice by the Sublessee of the Sublessee's election to extend the term of this Lease pursuant to the second paragraph of this § 13, the Owner-Trustee and the Sublessee are unable to agree upon a determination of the Rock Island Fair Market Rental Value of the Units, the right of the Sublessee to extend this Lease under the election in the second paragraph of this § 13 shall expire.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, and in the event the Lessee has elected to extend the original term of this Lease pursuant to the first paragraph of this § 13 but has not elected to extend the term of this Lease (as so extended) pursuant to the third paragraph of this § 13 and the Owner-Trustee elects to sell any Units to third parties at the expiration of the term of this Lease (as so extended), the Lessee shall be given written notice of such election prior to the expiration of the term of this Lease, as so extended (such date being hereinafter called the Expiration Date). Subject to the first sentence of this paragraph, in the event that the Owner-Trustee shall receive, prior to 90 days after the Expiration Date, a bona fide offer in writing from another party to purchase the Units and the Owner-Trustee elects to sell the Units pursuant to such offer, the Owner-Trustee shall give written notice to the

Lessee of such offer. Such notice shall be given to the Lessee on any date between 60 days before and 90 days after the Expiration Date and shall include the price and, if such offer was for other than solely cash, the other terms and conditions offered by the other party to the Owner-Trustee. The Lessee shall have the sole right and option, for a period of 20 days from the date of delivery of such notice, to purchase the Units for cash at the price, or at the price and (after giving effect to credit standing of the Lessee at the time of exercise of such purchase right) on substantially similar terms and conditions, at which the Units are proposed to be sold. The Lessee shall exercise such purchase right by delivery to the Owner-Trustee of a written notice specifying a date of purchase, which date shall not be later than the later of (i) 15 days after the date of delivery of such notice by the Lessee to the Owner-Trustee or (ii) 45 days after the Expiration Date. In the event that the Lessee shall have delivered a notice of its election to purchase the Units, this Lease (including the obligation to pay rent) shall be further extended or renewed upon the same terms and conditions set forth herein from the Expiration Date or the date such notice is delivered, as the case may be, to the Owner-Trustee until the date of such purchase.

§ 14. Return of Units upon Expiration of Term. On or prior to the termination of the term of this Lease or as soon as practicable on or after the termination of the term of this Lease and in any event not later than 90 days after the termination of the term of this Lease the Lessee will, at its own cost and expense, at the request of the Owner-Trustee, cause each Unit to be transported to such point or points on the Sublessee's or any sublessee's lines as shall be designated by the Owner-Trustee immediately prior to such termination and arrange for the Owner-Trustee to store such Unit on any of Sublessee's or any sublessee's lines of railroad or premises approved by the Owner-Trustee for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 120 days from the date at which at least 95% of such Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable for any injury to or the death of any person

exercising, either on behalf of the Owner-Trustee or any prospective purchaser or user, the rights of inspection granted under this sentence, except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents and except to the extent otherwise provided by law. The assembly, 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 Owner-Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Owner-Trustee pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Owner-Trustee pursuant to § 9 hereof and have removed therefrom at Lessee's expense any Part or Addition title to which is in the Lessee or any other person pursuant to such § 9 and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. If any Unit suffers a Casualty Occurrence during any period prior to its return to the Owner-Trustee as provided for in this § 14 or during any storage period provided for in this § 14, the Lessee shall pay to the Owner-Trustee the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of the term of this Lease as to such Unit, belong to and be the property of the Owner-Trustee. In the event that by the 120th day after the termination of the original or any extended term of this Lease the Lessee has not, at the request of the Owner-Trustee, caused at least 95% of the Units to be transported to such point or points as shall have been designated by the Owner-Trustee pursuant to this § 14, the Lessee shall pay to the Owner-Trustee the per diem interchange multiplied by the number of Units equal to the difference between 95% of such Units and the number of Units previously delivered pursuant to this § 14 (such number to be determined on each day) for each day from such 120th day to the date on which at least 95% of the Units have been so transported. If, after the termination of the storage period provided in this § 14, any Units have not been so transported, the Lessee shall pay to the Owner-Trustee the per diem interchange for each Unit not so transported for each day after the end of such storage period until such

Unit or Units have been so transported; provided, however, that if any Unit has not suffered a Casualty Occurrence prior to the first anniversary of the termination of this Lease and has not been so transported within one year after the termination of the term of this Lease, such Unit shall be deemed to have suffered a Casualty Occurrence and the Lessee shall pay or cause to be paid to the Owner-Trustee, on the 10th day after the expiration of such year, an amount equal to the greater of (x) the Casualty Value of such Unit as of such payment date or (y) the Fair Market Value of such Unit as of the date this Lease terminated and assuming such Unit had not experienced a Casualty Occurrence and was then in the condition required to be maintained by the terms of this Lease. If, after 10 days from the expiration of such year, the Owner-Trustee and the Lessee are unable to agree upon a determination of the Fair Market Value of any such Unit, such value shall be determined in accordance with the appraisal procedure specified in the fourth paragraph of § 13 hereof and payment of such amount shall be made on the fifth business day following the determination of such Fair Market Value. "Fair Market Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing buyer (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell.

Upon the expiration of the original term of this Lease on October 15, 1998, if neither the Lessee nor the Sublessee shall not have elected to exercise the renewal options provided by the first and second paragraphs of § 13 hereof, the Lessee will deliver to the Owner-Trustee a certificate of an officer of the Lessee to the effect that (a) no Event of Default or event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of October 15, 1998; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against the Owner-Trustee or the Owner) were, as of October 15, 1998, imposed on or with respect to any Unit, any accession thereto, or the interest of the Owner-Trustee or the Owner therein; (c) the Units have been returned to the Owner-Trustee pursuant to this § 14 in the same operating order, repair and condition required by the first paragraph of this § 14 and (d) the Lessee no longer has any interest in the Units under the Lease or otherwise. If a certificate of an officer of the Lessee is required to be furnished pursuant to the preceding sentence, the certificate described in clause (a) in the

preceding sentence shall be furnished on October 15, 1998, and the certificates described in clauses (b), (c) and (d) in the preceding sentence, in addition to being furnished on October 15, 1998, shall be furnished on a monthly basis, beginning on November 15, 1998, and such certificates shall cover each Unit returned during the preceding 30 calendar days and shall apply to each such Unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this § 14. Upon the expiration of any extended term of this Lease, if the Lessee shall not have elected to exercise any further renewal option or if the Lessee shall have no such further renewal option, the Lessee shall deliver to the Owner-Trustee a certificate or certificates of an officer of the Lessee to the foregoing effect, with such conforming changes as shall be appropriate under the circumstances.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the Security Document, the Lease Assignment, the Sublease, the Sublease Assignment, any sublease permitted by § 12 hereof (including the required assignment and reassignment thereof), and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessee will, at its own expense, undertake the filing, registering, deposit, and recording required of the Owner-Trustee under the Security Document 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 Owner-Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Owner-Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Document or the Lease Assignment.

§ 16. Additional Opinions. The Lessee will promptly furnish to the Vendor and the Owner-Trustee evidence of every filing, registering, depositing or recording required pursuant to § 15 hereof, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Owner-Trustee. This Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 17. Obligations of Owner-Trustee Under Security Document; Additional Rentals. In the event that the Owner-Trustee shall become obligated to make any payment (other than payments in settlement for Equipment or the principal of or interest on the Conditional Sale Indebtedness (as defined therein) pursuant to the Security Document and pursuant to the proviso to the third paragraph of Article 12 thereof) or to perform any obligations pursuant to the Security Document 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 Owner-Trustee's obligations (other than as aforesaid) pursuant to the Security Document shall be fully complied with, without regard for any limitation of liability of the Owner-Trustee contained in the Security Document.

§ 18. Owner-Trustee's Right To Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein or in the Bond, the Owner-Trustee may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Owner-Trustee incurred in connection with such performance or compliance, together with interest on such amount at the rate of 10.75% per annum (or such lesser amount as may be legally enforceable), shall be payable by the Lessee upon demand.

§ 19. 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 an amount equal to interest at a rate of 10.75% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 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 delivered to such other party or by registered or certified mail, postage prepaid, addressed as follows:

if to the Owner-Trustee, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Division;

if to the Lessee, care of Thayer, Ringoen & Macdonald, 50 California Street, San Francisco,

California 94111, attention of President;

if to the Owner, at P. O. Box 8300, Stamford, Connecticut 06904, Attention of Manager-Operations, Leasing and Industrial Loans, with a separate copy to Attention of Manager-Rail Component;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party. Any notice to the Lessee by the Vendor or the Investors regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Owner-Trustee.

§ 21. Owner-Trustee Acting as Trustee. The representations, undertakings and agreements herein made on the part of the Owner-Trustee are made and intended for the purpose of binding only the Trust Estate as such term is defined in the Trust Agreement.

Whenever the term Owner-Trustee is used in this Lease it shall apply and refer to the Owner-Trustee and any assignee of the Owner-Trustee.

§ 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 Owner-Trustee or the Lessee, or against the Owner or any other beneficiary of a trust for which the Owner-Trustee is acting as trustee, 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, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

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 Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements

by the Owner-Trustee, or for the purpose or with the intention of binding the Owner-Trustee personally but are made and intended for the purpose of binding only the Trust Estate and this Agreement is executed and delivered by the Owner-Trustee solely in the exercise of the powers expressly conferred upon the Owner-Trustee as Owner-Trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Owner-Trustee or the Owner on account of any representation, undertaking or agreement hereunder of the Owner-Trustee or the Owner, either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 of the Security Document and subparagraph (a) of the third paragraph of Article 4 of the Security Document; 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; provided, however, that the Lessee or any person claiming by, through or under the Lessee making claim hereunder, may look to said Trust Estate for satisfaction of the same.

§ 23. Federal Income Taxes. This Lease has been entered into on the basis that an opinion of the chief mechanical officer of the Sublessee to the effect described in subsection (iv) of Paragraph 8 of the Participation Agreement will be provided to the Owner; that the Owner, as the beneficial owner of each Unit, shall be entitled to such deductions, credits and other benefits provided by the Code to an owner of property, including, without limitation, (a) deductions for depreciation of each Unit under section 167 of the Code computed on the basis (i) that each Unit will have a basis under section 167(g) of the Code at least equivalent to the Purchase Price of such Unit, (ii) initially of the declining balance method, using a rate equal to 200% of the straight line rate, switching to the sum of the years-digits method authorized by section 167(b)(3) of the Code in the year in which such switch will result in a greater depreciation deduction than would be available under the declining balance method, without obtaining the consent of the Commissioner of Internal Revenue in accordance with Treasury Regulation § 167(a)-11(c)(1)(iii), (iii) of the asset depreciation range and class life system permitted by section 167(m) of the Code and Treasury Regulation § 1.167(a)-11(a)(1), (iv) of an asset depreciation period of 12 years, (v) of a net salvage value of zero after the reduction permitted by section 167(f)(1) of the Code and (vi) that the Units of Equipment shall be treated as having been placed in

service on the respective dates on which they are accepted and delivered under this Lease and the Security Document (hereinafter called the ADR Deductions), (b) deductions with respect to interest payable on the Conditional Sale Indebtedness (hereinafter called the Interest Deductions), and (c) investment credit pursuant to section 38 of the Code at least equal to 10% of the aggregate Purchase Price of such Unit (hereinafter called the Investment Credit). This Lease has also been entered into on the assumption that (1) for Federal income tax purposes all amounts includible in the gross income of the Owner with respect to the Equipment and all deductions allowable to the Owner with respect to the Equipment will be treated as derived from, or allocable to, sources within the United States, (2) for purposes of computing the ADR Deductions with respect to the Equipment for the calendar year in which the Units of Equipment were first placed in service, the Owner will be entitled to elect and will elect the half-year convention and (3) the Federal rate of tax imposed on taxable income of corporations in excess of $100,000 will be 46% through the date of acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing.

The Lessee agrees to use its best efforts to maintain sufficient records to verify the amount of income and deductions in respect of each Unit of Equipment allocable to sources within and without the United States. The Lessee agrees to give the Owner, within 60 days after request therefor, written notice describing the amount of income and deductions allocable to sources within and without the United States and specifying in reasonable detail the basis on which such allocations were made, if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner. In addition, within 90 days after the end of each calendar year, beginning with the year 1979, the Lessee agrees to furnish to the Owner a statement to the effect that none of the Equipment has been

used outside of the United States other than in Canada or Mexico on a temporary basis not exceeding 90 days during the preceding calendar year, or if any of the Equipment was used outside the United States during such year, giving the appropriate details of any such use, which statement shall be signed by the chief financial officer of the Lessee.

The Lessee represents and warrants that (i) all of the Units constitute property the entire Purchase Price of which qualifies for the Investment Credit under Section 50 of the Code; (ii) at the time the Owner-Trustee becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of section 48(b) of the Code and at the time the Owner-Trustee becomes the owner of the Units, the Units will not have been used or placed in service by any person so as to preclude "the original use of such property" within the meaning of sections 48(b) and 167(c)(2) of the Code from commencing with the Owner-Trustee; (iii) at all times during the original term of this Lease and all renewal terms, each Unit will constitute "section 38 property" within the meaning of section 48(a) of the Code; and (iv) at all times during the original term of this Lease and the renewal periods, the Owner will be entitled to treat, for Federal income tax purposes, each item of income, deduction and credit relating to all Units subject to this Lease as being derived from, or allocable to, sources within the United States.

If, for Federal income tax purposes, as a result of any reason whatsoever, but excluding any of the specific occurrences or events specified in the sixth paragraph of this § 23, (a) the Owner shall not be entitled to, shall suffer a disallowance or recapture of, shall lose the benefit of, or shall lose the right to claim (including a good faith determination based upon the opinion, to be obtained at the cost of the Lessee, of independent tax counsel of the Owner approved by the Lessee ("Special Tax Counsel"), which approval shall not be unreasonably withheld, that such claim is not allowable), all or any portion of the Investment Credit, the ADR Deductions or the Interest Deductions or (b) any item of income, deduction or credit with respect to the Equipment shall not be treated as derived from, or allocable to, sources within the United States (any such event described in clause (a) or (b) of this paragraph being hereinafter called a Loss), then the Lessee, at its option, after receiving written notice from the Owner of

such Loss together with a certificate of an officer of the Owner setting forth in reasonable detail the computations and methods used in calculating such Loss and the amount or amounts of the payments required to be made pursuant to clause (i) or (ii) below (such notice and certificate being hereinafter collectively called the Net Economic Return Notice), shall either (i) commencing with the next rental payment date occurring more than 30 days after receipt by the Lessee of the Net Economic Return Notice, which Net Economic Return Notice may not be delivered more than 30 days prior to payment by the Owner of the tax which becomes due as a result of the Loss, increase the rental payments under this Lease over its remaining term by an amount as shall cause the Owner's Net Economic Return (as defined in § 3 of this Lease) to equal the Net Economic Return that would have been realized by the Owner if such Loss had not occurred, such increase in the rental payments to be made directly to the Owner, or (ii) within 30 days of receipt of the Net Economic Return Notice, pay to the Owner in lump sum the amount as shall, in the reasonable opinion of the Owner, be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred. If the option under (ii) above is selected, then to the extent any Loss results in a later benefit to the Owner which has not been taken into account in determining the lump-sum payment, payment will be made to the Lessee at the time such benefit is realized; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Owner pursuant to the option specified in (ii) above in respect of a Loss less (y) the amount of all prior payments by the Owner to the Lessee hereunder, and the amount by which such payment would exceed such amounts shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Owner pursuant to the option specified in (ii) above. The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions as were utilized by the Owner in originally evaluating the transaction except for the assumption that has resulted in such adjustments.

In the event that the Owner suffers a Loss and the Owner and the Lessee are unable to agree, within 60 days following the Lessee's receipt of a Net Economic Return Notice, on the indemnity amounts or amounts required to restore the

Owner's Net Economic Return, then the Lessee shall pay in a lump sum within 30 days after expiration of said 60-day period, such amount as shall, in the reasonable opinion of the Owner (regardless of whether the Lessee agrees therewith) be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred.

If there is any amendment to, or change in, the Code or any regulation thereunder which is effective on or prior to the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease, and if such amendment or change affects the privilege of the Owner to file consolidated Federal, state and local income tax returns with corporations affiliated with it, or the Federal rate of tax on the taxable income of corporations, then the amounts of rentals and the Casualty Values under this Lease will be appropriately adjusted by such amount or amounts as shall, in the reasonable opinion of the Owner, cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such amendment or change had not occurred; provided, however, that the rentals and Casualty Values, as so adjusted, shall not be less than amounts sufficient to satisfy the obligations of the Owner-Trustee under the Security Document.

Any late payment by any party hereto of any of its obligations under this § 23 shall result in the obligation on the part of such party promptly to pay an amount equal to interest at the rate per annum equal to 1% in excess of the Prime Rate compounded quarterly on the overdue payment. Prime Rate as used herein shall mean the rate per annum which Manufacturers Hanover Trust Company, New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable.

Notwithstanding anything to the contrary set forth hereinabove, no amount shall be payable as an indemnity hereunder to the Owner in respect of any Loss to the extent such Loss is the result of any of the following on the part of the Owner:

(i) a voluntary transfer or voluntary disposition (whether prior to, during or after the term of this Lease or the Sublease, but not including a transfer or

disposition as a result of a Casualty Occurrence) of any Units or of the interest of the Owner in any Units or the rentals under this Lease or the Sublease, or any transfer or disposition of any Units or of the interest of the Owner in any Units or the rentals under this Lease or the Sublease, whether voluntary or involuntary, which results from bankruptcy or other proceedings for the relief of debtors in which the Owner is the debtor, unless, in each case, such transfer or disposition is made (A) after an Event of Default, as defined in § 10 of this Lease, has occurred and is continuing; (B) in connection with any alteration, modification or addition to any Unit; or (C) with the consent of the Lessee;

(ii) the failure of the Owner to claim in a timely manner the Investment Credit, the ADR Deductions (including making all appropriate elections under the applicable Income Tax Regulations), the Interest Deductions or any foreign tax credit or to make a timely election, if permitted by the Code, to treat income and deductions with respect to the Equipment as derived from, or allocable to, sources within the United States, unless Special Tax Counsel of the Owner shall have given its opinion to the Owner that such claim is not allowable;

(iii) the failure of the Owner to have sufficient liability for Federal income tax against which to credit Investment Credit or foreign tax credit or sufficient income to benefit from the ADR Deductions or the Interest Deductions, as applicable;

(iv) any residual sharing, guarantee agreement or other voluntary act of the Owner (either individually or in concert with others) which is not included in the foregoing clauses and which is not required or contemplated by the Security Document, the Participation Agreement, the Trust Agreement, this Lease, the Sublease, the Sublease Assignment, the Sublease Assignment Consent, the Lease Assignment, the Consents, the Assignment, the Bond, the Assumption Agreement if entered into or any other document contemplated by any of the foregoing or entered into in connection therewith;

(v) a change in the form or type of organization or the taxable status of the Owner or any successor or transferee of the Owner;

(vi) a Casualty Occurrence with respect to a Unit, if the Owner-Trustee shall have received all amounts required to be paid in respect of such Casualty Occurrence under this Lease; or

(vii) any amendment to, or change in, the Code or the Income Tax Regulations which is effective after the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

If at the conclusion of an audit the Owner receives a preliminary or "30-day" letter from the Internal Revenue Service proposing an adjustment in any item claimed in accordance with the fifth paragraph of this § 23 on a tax return or refund claim of the Owner for which the Lessee would be required to indemnify the Owner pursuant to this § 23 and the amount of the indemnity which the Lessee would be required to pay would exceed $100,000 or, in the good faith of the Lessee, the adjustment would have a substantial and continuing precedental adverse effect on the Lessee or the Sublessee or the railroad industry and the Lessee so advises the Owner in writing, then, if requested by the Lessee in a timely written request, the Owner shall request an opinion from Special Tax Counsel of the Owner as to whether the basis in law and in fact in favor of allowance of the item proposed to be adjusted outweighs the basis in law and in fact to the contrary. If the opinion is to that effect and if the Lessee promptly requests the Owner to do so, the Owner shall contest the proposed adjustment; provided, however, that Special Tax Counsel of the Owner shall determine the nature of all action to be taken to contest such proposed adjustment including (A) whether any action to contest such proposed adjustment shall initially be by way of judicial or administrative proceedings, or both, (B) whether any such proposed adjustment shall be contested by resisting payment thereof or by paying the same and seeking a refund thereof, and (C) if the Owner shall undertake judicial action with respect to such proposed adjustment, the court or other judicial body before which such action shall be commenced. The Owner shall have full control over any contest pursuant to this paragraph and shall not be obligated to appeal an adverse determination by any court if the Owner shall have obtained an opinion from its Special Tax Counsel that the basis in law and in fact in favor of a favorable outcome in the event such determination is appealed outweighs the basis in law and in fact to the contrary. At any time, whether before or after commencing to take the

action set forth in this paragraph, the Owner may decline to take such action by notifying the Lessee in writing that the Lessee is relieved of its obligation to indemnify the Owner with respect to the adjustment proposed by the Internal Revenue Service or such portion thereof as may be specified in such notice.

The Owner shall not be required to take any action pursuant to the preceding paragraph unless and until the Lessee shall have agreed to indemnify the Owner in a manner reasonably satisfactory to the Owner for any liability or loss which the Owner may incur as a result of contesting the validity of any proposed adjustment and shall have agreed to pay to the Owner on demand all costs and expenses which the Owner may incur in connection with contesting such proposed adjustment (including reasonable fees and disbursements of counsel selected by the Owner). If the Owner determines to contest any adjustment by paying the additional tax and suing for a refund, the Lessee shall have paid to the Owner an amount equal to the sum on an after-tax basis of any tax, interest, penalties and additions to tax which are required to be paid. Upon receipt by the Owner of a refund of any amounts paid by it based on the adjustment in respect of which amounts it shall have been paid an equivalent amount by the Lessee, the Owner shall pay to the Lessee the amount of such refund together with any interest received by it on such amount, and if such refund is not taxable income to the Owner, and if payment under this or the preceding paragraph to the Lessee is deductible by the Owner for Federal income tax purposes, then the Owner shall also pay to the Lessee the amount by which the Owner's taxes are reduced as the result of such deduction; provided, however, that in no event shall the total amount paid to the Lessee pursuant to this or the preceding paragraph with respect to a particular refund exceed the amount paid by the Lessee to the Owner in connection with the payments made pursuant to the immediately preceding sentence to which such refund relates.

For purposes of this § 23, the term "Owner" shall include any affiliated group, within the meaning of Section 1504 of the Code, of which the Owner is a member if consolidated returns are filed for such affiliated group for Federal income tax purposes.

If the Owner is required by the Internal Revenue Service to include in its gross income an amount in respect of any improvement and/or addition to such Unit of Equipment

made by the Lessee, title to which vests in the Owner or the Owner-Trustee (which amounts are hereinafter called Capital Expenditures), then the Lessee shall pay directly to the Owner, as an indemnity, in immediately available funds, such amount or amounts which, after deduction of all taxes required to be paid by the Owner in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority of the United States, shall be equal to the sum of the aggregate additional Federal, state or local income taxes payable by the Owner from time to time as a result of such Capital Expenditure plus the amount of any interest, penalties or additions to tax payable as a result of any such Capital Expenditure (less any Federal, state or local tax benefits resulting from payment of any amounts reimbursed hereunder). If as a result of any such Capital Expenditure the aggregate Federal, state or local income taxes paid by the Owner for any taxable year shall be less than the amount of such taxes which would have been payable by the Owner had no such Capital Expenditure been made, then the Owner shall pay the Lessee the amount of such savings in taxes plus any additional tax benefits realized by the Owner as a result of such payment; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Owner pursuant to this paragraph in respect of any Capital Expenditures less (y) the amount of all prior payments by the Owner to the Lessee hereunder, and the amount by which such payment would exceed such amount shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Owner pursuant to the first sentence of this paragraph. The amount payable to the Owner pursuant to this paragraph shall be paid within 30 days after receipt of the written demand therefor from the Owner (but not prior to payment by the Owner of the additional Federal, state or local income tax, as the case may be, which becomes due as a result of the said inclusion) accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Lessee from the Owner pursuant to this paragraph shall be paid within 30 days after the Owner realizes any such savings in its income taxes or additional tax benefits, as the case may be. The Owner agrees to contest the inclusion in its gross income of any amount with respect to a Capital Expenditure to the extent, and under the circumstances, set forth in the ninth and tenth paragraphs of this § 23.

The Lessee agrees to give the Owner, within 30 days after request therefor, written notice describing in reasonable detail Capital Expenditures made and specifying the cost thereof with respect to each Unit of Equipment if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner.

In the event that any indemnity payments are required to be made by the Lessee, or in the event the amount of rentals under this Lease are adjusted, pursuant to any paragraph of this § 23, the damages and amounts set forth in § 10 of this Lease and the applicable Casualty Value percentages set forth in Schedule B to this Lease shall be appropriately adjusted by the Owner (but in no event shall the applicable Casualty Values be reduced below the corresponding Fair Values as defined in the Security Document). The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions, including, without limitation, tax rates, as were utilized by the Owner in originally evaluating this transaction except for the assumption that has resulted in such adjustment. In connection therewith, the Owner shall provide the Lessee with a certificate of an officer of the Owner setting forth in reasonable detail the figures and methods used in making such calculations. In the case of any such adjustments in the damages and amounts set forth in § 10 of this Lease and the applicable Casualty Value percentages set forth in Schedule B to this Lease, if any payment of such damages, amounts or Casualty Values shall have been made prior to the adjustments made pursuant to this paragraph, (a) the Lessee shall pay to the Owner the excess amount which would have been payable on the due date of such payment by reason of the adjustments pursuant to this paragraph or (b) the Owner shall pay to the Lessee the amount of such payments in excess of the amount of such payments which would have been payable by reason of the adjustments pursuant to this paragraph. The Lessee's and the Owner's agreements to pay any sums which may become payable pursuant to this § 23 shall survive the expiration or other termination of this Lease.

The Lessee shall have the right, upon demand, to have Thayer, Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, or another independent party selected by the Lessee and approved by the Owner, which approval shall not be unreasonably withheld, review any calculations made by the Owner pursuant to this § 23 to

determine the consistency of the methods and the assumptions used in such calculations with those used by the Owner in originally evaluating this transaction and the accuracy of such computations based on such methods and assumptions.

The liability of the Lessee to make indemnification payments pursuant to this § 23 shall, notwithstanding any expiration or termination of this Lease, continue to exist until such indemnity payments are made by the Lessee. All indemnity payments under this § 23 shall be made directly to the Owner.

§ 24. Severability; Effect and Modification of Lease; Third Party Beneficiaries. 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.

This Lease exclusively and completely states the rights of the Owner-Trustee and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement. 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 Owner-Trustee and the Lessee.

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Owner, the Builder, the Vendor, the Investors and the permitted successors and assigns of a party, each of which shall be deemed to be a third-party beneficiary hereof) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

§ 25. 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 Vendor shall be deemed to be the original counterpart. 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.

§ 26. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Ohio; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 27. Agreement for Benefit of the Owner. All rights of the Owner-Trustee hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 10 and 23, and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Owner and any of the Owner's successors and assigns under the Trust Agreement.

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

GAMS TRANSPORTATION, INC.,

by _____

[CORPORATE SEAL]

Attest:

_____

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by _____
Authorized Officer

[CORPORATE SEAL]

Attest:

_____
Authorized Officer

STATE OF CALIFORNIA,)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is of GAMS TRANSPORTATION, INC., 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.

Notary Public

[Notarial Seal]

My Commission Expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this 3 day of Aug 1979, before me personally appeared JOHN R. SAGER, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, 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 By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Venna L DeCora
Notary Public

[Notarial Seal]

My Commission Expires

My Commission Expires November 15, 1981

Schedule A

Type	Builder's Specification	Builder's Plant	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Road Numbers (Inclusive)	Estimated Time of Delivery
50-foot, 6-inch 70-ton, Class XF boxcar	No. 1042, dated March 29, 1979, as amended	Bessemer, Alabama	308	$40,900	$12,597,200	ROCK 302042 through ROCK 302249 W&OV 1 through W&OV 100	July-August 1979

Place of delivery: Bessemer, Alabama

SCHEDULE B to LEASE

Casualty Values*

Item I:

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**		Percentage of Purchase Price
4/1980	1	85.23	1/1990	40	67.11
7/1980	2	85.76	4/1990	41	65.98
10/1980	3	86.20	7/1990	42	64.82
1/1981	4	86.49	10/1990	43	63.65
4/1981	5	86.79	1/1991	44	62.45
7/1981	6	87.07	4/1991	45	61.25
10/1981	7	87.28	7/1991	46	60.01
1/1982	8	87.44	10/1991	47	58.75
4/1982	9	87.51	1/1992	48	57.48
7/1982	10	87.56	4/1992	49	56.21
10/1982	11	87.42	7/1992	50	54.90
1/1983	12	87.35	10/1992	51	53.59
4/1983	13	87.23	1/1993	52	52.26
7/1983	14	87.08	4/1993	53	50.93
10/1983	15	86.83	7/1993	54	49.58
1/1984	16	86.51	10/1993	55	48.23
4/1984	17	86.24	1/1994	56	46.87
7/1984	18	85.90	4/1994	57	45.50
10/1984	19	85.48	7/1994	58	44.14
1/1985	20	84.98	10/1994	59	42.76
4/1985	21	84.47	1/1995	60	41.39
7/1985	22	83.93	4/1995	61	40.01
10/1985	23	83.30	7/1995	62	38.63
1/1986	24	82.61	10/1995	63	37.25
4/1986	25	81.90	1/1996	64	35.87
7/1986	26	81.27	4/1996	65	34.49
10/1986	27	80.4~~0~~5 and	7/1996	66	33.11
1/1987	28	79.15	10/1996	67	31.73
4/1987	29	78.06	1/1997	68	30.35
7/1987	30	77.21	4/1997	69	28.98
10/1987	31	76.32	7/1997	70	28.62
1/1988	32	75.40	10/1997	71	28.25
4/1988	33	74.45	1/1998	72	27.87
7/1988	34	73.48	4/1998	73	27.48
10/1988	35	72.48	7/1998	74	27.09
1/1989	36	71.45	10/1998	75	26.69
4/1989	37	70.40	1/1999	76	26.27
7/1989	38	69.32	4/1999	77	25.85
10/1989	39	68.23	7/1999	78	25.42

* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

Casualty Values*

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**	Percentage of Purchase Price
10/1999	79	24.98		
1/2000	80	24.53		
4/2000	81	24.07		
7/2000	82	23.60		
10/2000	83	23.12		
1/2001	84	22.63		
4/2001	85	22.13		
7/2001	86	21.61		
10/2001	87	21.09		
1/2002	88	20.55		
4/2002 and thereafter	89	20.00		

Item II:	Anniversary of Delivery and Acceptance	Percentage of Purchase Price
	Third	19.64444
	Fifth	13.09630
	Seventh	6.54815

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* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

Appendix A to
Lease

SUBLEASE OF RAILROAD EQUIPMENT

Dated as of July 20, 1979

between

WILLIAM M. GIBBONS,
TRUSTEE OF THE PROPERTY OF
CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY,

as Sublessee

and

GAMS TRANSPORTATION, INC.,

as Sublessor

TABLE OF CONTENTS

		Page
PREAMBLE	.....	SL-1
§ 1.	Net Lease	SL-2
§ 2.	Delivery and Acceptance of Units	SL-3
§ 3.	Rentals	SL-4
§ 4.	Term of Sublease	SL-5
§ 5.	Identification Marks	SL-7
§ 6.	Taxes	SL-8
§ 7.	Payment for Casualty Occurrences; Insurance	SL-12
§ 8.	Reports	SL-15
§ 9.	Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification	SL-16
§ 10.	Default	SL-22
§ 11.	Return of Units Upon Default	SL-28
§ 12.	Assignment; Possession and Use	SL-29
§ 13.	Renewal Options	SL-32
§ 14.	Return of Units Upon Expiration of Term	SL-33
§ 15.	Recording	SL-36
§ 16.	Obligations of Owner-Trustee Under Security Document; Additional Rentals	SL-36
§ 17.	Sublessor's Right To Perform for the Sublessee	SL-37

		Page
§ 18.	Interest on Overdue Rentals	SL-37
§ 19.	Notices	SL-37
§ 20.	Federal Income Taxes	SL-38
§ 21.	Severability; Effect and Modification of Sublease; Third Party Beneficiaries	SL-48
§ 22.	Other Obligations	SL-48
§ 23.	Execution	SL-50
§ 24.	Law Governing	SL-50
TESTIMONIUM		SL-50
SIGNATURES		SL-50
ACKNOWLEDGMENTS		SL-51
SCHEDULE A		SL-52
SCHEDULE B		SL-53

SUBLEASE OF RAILROAD EQUIPMENT dated as of July 20, 1979, between WILLIAM M. GIBBONS, TRUSTEE OF THE PROPERTY OF CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY (such company being hereinafter called the Debtor and such Trustee being hereinafter called the Sublessee) and GAMS TRANSPORTATION, INC., an Ohio corporation (hereinafter called the Sublessor).

On March 17, 1975, the Debtor filed a petition for reorganization under Section 77 of the Bankruptcy Act in the United States District Court for the Northern District of Illinois (hereinafter called the Court) and such petition was duly approved as properly filed by order entered on such date by such Court (the proceedings with respect thereto being hereinafter called the Reorganization Proceedings) and William M. Gibbons was duly qualified as Trustee of the property of the Debtor on April 4, 1975.

First Security State Bank, acting not in its individual capacity but solely as Trustee (hereinafter called the Owner-Trustee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement), with General Electric Credit Corporation (hereinafter called the Owner) has entered or will enter into a conditional sale agreement (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), pursuant to which the Owner-Trustee has agreed to purchase and take delivery of the railroad equipment described in Schedule A hereto (hereinafter called the Equipment).

The Builder is assigning its interests in the Security Document pursuant to an Agreement and Assignment, dated as of the date hereof (hereinafter called the Assignment), to First Security Bank of Utah, N.A., acting as Agent (hereinafter together with its successors and assigns called the Vendor), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Sublessor, the Sublessee, the Owner-Trustee, the Owner and the party or parties named in Schedule A thereto (hereinafter called the Investors).

The Sublessor will lease from the Owner-Trustee units of the Equipment which are delivered and accepted and settled for under the Security Document (hereinafter called the Units), pursuant to a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), and the Sublessor desires to sublease the Units to the Sublessee at the rentals and for the term and upon the conditions hereinafter provided.

The Sublessor intends to assign certain of its rights under this Sublease to the Owner-Trustee pursuant to an Assignment of Sublease and Agreement, dated as of the date hereof (hereinafter called the Sublease Assignment), and the Sublessee will consent to the Sublease Assignment pursuant to a Sublessee's Consent and Agreement (hereinafter called the Sublessee's Consent).

The Owner-Trustee intends to assign certain of its rights under the Sublease and the Sublease Assignment to the Vendor pursuant to an Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement dated as of the date hereof (hereinafter called the Sublease Reassignment), and the Sublessee will consent to such Sublease Reassignment pursuant to a Consent and Agreement (such Consent, together with the Sublessee's Consent, being hereinafter collectively called the Consents).

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

§ 1. Net Lease. This Sublease is a net lease. The Sublessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein provided, the Sublessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions, counterclaims or setoffs due or alleged to be due by reason of any past, present or future claims of the Sublessee against the Sublessor, the Owner-Trustee or the Owner, whether under this Sublease, under the Security Document, under the Lease or otherwise, including the Sublessee's rights by subrogation hereunder or thereunder against the

Builder or the Owner-Trustee or the Sublessor or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Sublease terminate, or the respective obligations of the Sublessor or the Sublessee 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 Sublessee'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 or approval of this Sublease, any present or future insolvency of or bankruptcy, reorganization or similar proceeding against the Sublessee, 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 Sublessee 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 Sublease. To the extent permitted by applicable law, the Sublessee 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 sublease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Sublessee hereunder shall be final and the Sublessee shall not seek to recover all or any part of such payment from the Sublessor, the Owner-Trustee, the Owner or the Vendor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Sublessor hereby appoints the Sublessee its agent for inspection and acceptance of the Units pursuant to the Security Document; provided, however, that such acceptance shall be in accordance with the provisions of Article 3 of the Security Document. The Sublessor will cause each Unit to be delivered to the Sublessee at the point or points within the United States of America at which such Unit is delivered to the Sublessor under the Lease. Upon delivery of such Unit, the Sublessee will cause an employee or agent of the Sublessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such unit on behalf of the Owner-Trustee under the Security Document, the Sublessor under the Lease and itself hereunder and to execute and deliver to the

Owner-Trustee a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Document, stating that such Unit has been inspected and accepted on behalf of the Sublessee, the Sublessor and the Owner-Trustee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Sublessee and shall be subject thereafter to all the terms and conditions of this Sublease. The delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the Security Document pursuant to the second paragraph of Article 3 or the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such unit to this Sublease. The Sublessee hereby represents and warrants to the Sublessor and the Owner-Trustee, as a third party beneficiary hereof, that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Sublessee as agent for the Sublessor hereunder.

§ 3. Rentals. With respect to each Unit subject to this Sublease, the Sublessee will pay to the Sublessor as (i) basic rentals 60 consecutive equal quarterly payments, payable on January 15, April 15, July 15 and October 15 in each year, commencing July 15, 1980, and (ii) interim rental two payments on January 15, 1980, and April 15, 1980. The 60 quarterly rental payments shall each be in an amount equal to 2.6651% of the Purchase Price (as defined in the Security Document) of each Unit subject to this Sublease on the date of such payment. The interim rental shall be in an amount equal to the product of the Purchase Price of each Unit subject to this Sublease on the date of payment multiplied by .029503% for each day elapsed from and including the Closing Date (as defined in the Security Document) for such Unit to, but excluding April 15, 1980, and shall be payable to the extent accrued on each interim rental payment date.

In addition to the foregoing basic rentals, the Sublessee will pay to the Sublessor the following additional rentals: (i) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (a) of the last paragraph of Paragraph 9 of the Participation Agreement and (ii) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (b) of the last para-

graph of Paragraph 9 of the Participation Agreement, in each case on such date as will enable the Owner-Trustee to make such payment.

If any of the quarterly rental payment dates referred to above is not a Business Day (as such term is defined in the Security Document) the quarterly rental payment otherwise payable on such date shall then be payable on the next succeeding Business Day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next succeeding Business Day.

The Sublessor irrevocably instructs the Sublessee to make, and the Sublessee agrees to make, all the payments (other than payments under § 6 and § 20 hereof) due the Sublessor provided for in this Sublease including, but not limited to, all payments provided for in this § 3 and in § 7 hereof, (i) for so long as the Security Document shall remain in effect, to the Vendor, for the account of the Owner-Trustee, in immediately available funds at or prior to 11 a.m. (Salt Lake City time) to the office of the Vendor (at 79 South Main Street, Suite 310, Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department) on the date due, with instructions to the Vendor to apply such payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement, and (ii) if the Security Document shall no longer be in effect, to the Owner-Trustee or as directed by the Owner-Trustee in immediately available funds at such place as the Owner-Trustee shall specify in writing.

§ 4. Term of Sublease. The term of this Sublease 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 April 15, 1995. Except for obligations of the Sublessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Sublessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9, 11, 14, 19 and 20 hereof) shall survive the expiration of the term of this Sublease.

Anything in this Sublease to the contrary notwithstanding, the term of this Sublease shall terminate on the date (i) the Court finds that the Sublessee is unable to

transport the traffic offered the Sublessee because the Sublessee's cash position or other facts make the Sublessee's continuing operation of the Debtor impossible and orders the Sublessee to discontinue service and/or liquidate the assets of the Debtor or (ii) this Sublease is disaffirmed or rejected pursuant to a plan of reorganization confirmed in the Reorganization Proceedings and in such event the obligation to pay rental referred to in the first paragraph of § 3 accruing subsequent to the date that the Sublessee returns the Equipment to the Sublessor in the manner contemplated by § 14 hereof shall terminate and the Sublessor shall have no claim against the Sublessee, the Debtor or the Successor (as defined in § 10 hereof) for such unaccrued rental.

The obligation of the Sublessee to pay any and all sums:

(x) due and owing under this Sublease, including without limitation accrued rental referred to in the first paragraph of § 3, prior to the date of return of the Equipment to the Sublessor as herein provided for; and

(y) which may become due and owing subsequent to the date of return of the Equipment to the Sublessor as a result of acts or omissions of the Sublessee occurring prior to such date,

shall continue in full force and effect notwithstanding termination of the Sublease and the immediately preceding paragraph.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Sublessee under this Sublease and in and to the Units are subject to the rights of the Vendor under the Security Document and the Owner-Trustee under the Lease. If an Event of Default should occur under § 10 of the Lease, upon notice by the Owner-Trustee or the Vendor to the Sublessor and Sublessee, the participation of the Sublessor under this Sublease shall, without the consent of the Sublessor or the Sublessee and immediately and automatically and without any further action, be terminated, and the Owner-Trustee without its further consent and immediately and automatically and without any further action shall become the Sublessor under this Sublease;

and the Sublessor hereby agrees and acknowledges that in such event it shall no longer be a party to this Sublease and that it would no longer have any claim whatsoever to any rental payments paid to the Vendor pursuant to § 3 hereof subsequent to such event. If an event of default should occur under the Security Document as provided in § 10(E) hereof, the Vendor may terminate this Sublease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Sublessee will cause 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 Sublease 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 WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Owner-Trustee's title to and the Vendor's security interest in such Unit and the rights of the Sublessor under this Sublease, of the Owner-Trustee under the Lease and of the Vendor under the Security Document. The Sublessee will not place or permit any such Unit to be placed 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 or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Sublessee will not change or permit to be changed 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 Vendor, the Owner-Trustee and the Sublessor and duly filed, recorded and deposited by the Sublessee in all public offices where this Sublease, the Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Sublessee shall have furnished the Vendor, the Owner-Trustee and the Sublessor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's, the Owner-Trustee's and the Sublessor's interests in such Units and no filing, recording, deposit or giving of

notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor, the Owner-Trustee and the Sublessor in such Units.

Except as above provided, the Sublessee 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; provided, however, that the Sublessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Sublessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of its rights to use the Equipment under this Sublease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Sublessee therein.

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Sublessee agrees to pay, and on written demand to indemnify and hold the Sublessor, the Owner-Trustee, the Owner, the Builder, the Vendor, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under the Security Document and the Participation Agreement harmless from all taxes (income, gross receipts, franchise, sales, use, property (real or personal, tangible or intangible), stamp and minimum (imposed under section 56 of the Internal Revenue Code of 1954, as amended) taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Sublessor, the Owner-Trustee, the Owner, the Vendor, the Builder, the Investors, the Sublessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under the Security Document and the Participation Agreement, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; this Sublease, the Lease, the Sublease Assignment, the Sublessee's Consent, the Sublease Reassignment, the Consents, the Trust

Agreement, the Participation Agreement (including the certificates of interest and the issuance thereof to the Investors pursuant thereto), the Security Document, the Bond (as defined in the Lease), the Assumption Agreement (as so defined) or the Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Security Document and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States or of any state or local government or governmental subdivision thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Sublessor, the Owner-Trustee (in its individual capacity), the Owner, the Investors, the Builder or the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Sublease or the Lease, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Sublease or the Lease shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Owner or any transfer or disposition by or on behalf of the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Sublease or the Lease, without the consent of the Sublessee, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence or an Event of Default shall have occurred and be continuing; (iii) any Taxes imposed on or measured by any trustee or agency fees received by the Owner-Trustee or the Vendor; and (iv) Taxes which are imposed on or measured solely by the net income of the Owner-Trustee or the Vendor if and to the extent that such Taxes are in substitution for

or reduce the Taxes payable by any other person which the Sublessee has not agreed to pay or indemnify against pursuant to this § 6; provided, however, that the Sublessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the fourth paragraph of this § 6. The Sublessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Sublessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Sublessee is a member) under the laws of the United States or of any state or local government or governmental subdivision thereof, or of any foreign country or subdivision or authority thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Sublessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

The amount which the Sublessee shall be required to pay with respect to any Taxes indemnified against pursuant to this § 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

In the event that the Owner-Trustee shall become obligated to make any payment to the Builder, the Investors, the Vendor or the estate held by the Vendor under the Security Document and the Participation Agreement pursuant to Article 6 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, or the Sublessor shall become obligated to make any payment to the Vendor, the Builder, the Investors, or the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under the Participation Agreement and the Security Document pursuant to any correlative provision of the Lease not covered by the first paragraph of this § 6, the Sublessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Owner-Trustee or the Owner or the Sublessor as will enable the Owner-Trustee or the Owner or the Sublessor to fulfill completely its obligations pursuant to said provisions. The Sublessor agrees not to enter into any amendment of the Lease which would adversely affect the interest of the Sublessee under this Sublease without the written consent of the Sublessee.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Sublessee. If reasonably requested by the Sublessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Sublessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Sublessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party which consent shall not be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Sublessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Sublessee and the period of such payment, such indemnified party shall pay to the Sublessee the amount of such refund or interest net of expenses, but only if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing.

In case any report or return is required to be made with respect to any obligation of the Sublessee under this § 6 or arising out of this § 6, except obligations resulting from the second sentence of the first paragraph of this § 6, the Sublessee shall either make such report or return in such manner as will show the interests of the Owner-Trustee, the Vendor and the Sublessor in the Units, or shall promptly notify the Sublessor, the Owner-Trustee, the Owner and the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Sublessor, the Owner-Trustee, the Vendor and the Owner. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Sublessee.

All the obligations of the Sublessee under this § 6 shall survive and continue, notwithstanding payment in full of all amounts due under the Security Document or the termination of this Sublease or the Lease, but only with respect to periods included in the term of this Sublease. Payments due from the Sublessee under this § 6 shall be payable directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Sublessee shall not constitute a guarantee by the Sublessee of the payment of any installments of principal or interest payable under the Security Document, or a guarantee of the value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

The Sublessee shall furnish promptly, upon request, such information and data as are normally available to the Sublessee and which the Sublessor, the Owner-Trustee, the Vendor or the Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§ 7. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Sublessee for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Sublease (such occurrences being hereinafter called Casualty Occurrences), during the term of this Sublease, or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Sublessee shall promptly and fully notify (after the Sublessee has knowledge of such Casualty Occurrence) the Sublessor, the Owner-Trustee and the Vendor with respect thereto. On the rental payment date (not earlier than the first regular quarterly rental payment date) next succeeding the delivery of such notice (or, in the event such rental payment date will occur within 15 days after delivery of notice, on the following rental payment date, or, in the event the term of this Sublease has already expired or will expire within 15 days after delivery of such notice, on a date within 15 days of such delivery), the Sublessee shall pay or cause to be paid to the Sublessor 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 of such Unit as of such rental payment date (such ren-

tal payment date being hereinafter called the Calculation Date). Upon the making of such payment by the Sublessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Sublease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Sublessor shall be entitled to recover possession of such Unit.

If the date upon which the making of such payment by the Sublessee in respect of any Unit as required as aforesaid shall be after the term of this Sublease in respect of such Unit shall have expired, no rental for such Unit shall accrue after the end of such term but the Sublessee, in addition to paying the Casualty Value for such Unit shall pay interest thereon from the end of such term to the date of such payment at the greater of (i) the prime rate of interest which Manufacturers Hanover Trust Company charges on the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing and (ii) 10.75% per annum.

The Sublessor, as agent for the Owner-Trustee under the Lease, shall dispose of any such Unit suffering a Casualty Occurrence at the best price obtainable on an "as is, where is" basis. Provided that the Sublessee has previously paid the Casualty Value to the Sublessor and no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Sublessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and the Sublessor shall pay such proceeds to the Sublessee, and the excess shall be retained by the Sublessor. If such an Event of Default or event has occurred and is continuing, the Sublessor shall retain the proceeds of such sale for application in accordance with § 10 hereof.

The Casualty Value of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in § 20 hereof). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the

Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

In the event of the requisition for use of any Unit during the term of this Sublease or any renewal thereof, unless such requisition shall constitute a Casualty Occurrence, all of the Sublessee's obligations under this Sublease 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 at any time after the end of the term of this Sublease, the Sublessee shall be obligated to return such Unit to the Sublessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return rather than at the end of the term of this Sublease; but the Sublessee 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 Sublessor or the Sublessee from the requisitioning authority for the use of such Unit during the term of this Sublease shall be paid over to, or retained by, the Sublessee provided no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing; and all payments received by the Sublessor or the Sublessee from the requisitioning authority for the use of such Unit after the term of this Sublease, shall be paid over to, or retained by, the Sublessor.

Except as hereinabove in this § 7 provided, the Sublessee 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 Sublessee hereunder.

The Sublessee will, at all times prior to the return of the Equipment to the Sublessor in accordance with the terms of this Sublease (including the storage period provided under §§ 11 and 14), maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Units at the time subject hereto, 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 Sublessee on similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $10,000,000 (with a deductible of not greater than $1,000,000)

per occurrence. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee, the Surety, the Sublessor and the Sublessee as their respective interests may appear.

The Sublessee will, at all times prior to the return of the Equipment to the Sublessor in accordance with the terms of this Sublease, at its own expense, cause to be carried and maintained public liability insurance, naming the Owner, the Owner-Trustee, the Surety, the Sublessor and the Vendor as additional named insureds as their interests may appear, 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 Sublessee in respect of similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $29,000,000 (with a deductible of not greater than $2,000,000) per occurrence. Any policy of insurance carried in accordance with this paragraph shall not provide for any payment of premiums or commissions by the Owner, the Owner-Trustee or the Vendor.

The Sublessee shall obtain from each insurer under the two paragraphs immediately above an agreement, by endorsement or separate instrument, that such insurer will give the Sublessor, the Surety, the Owner-Trustee, the Owner and the Vendor 30 days' written notice before such insurer's policy shall be materially altered or canceled or not renewed. In January of each year, the Sublessee shall deliver to the Surety, the Owner-Trustee, the Owner, the Sublessor and the Vendor a certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1980, the Sublessee will furnish to the Sublessor, the Owner-Trustee, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then subleased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Sublease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Sublessee are then undergoing repairs (other than run-

ning repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Sublessor, the Owner-Trustee or the Vendor may reasonably request prepared by an independent qualified engineer who may be the chief mechanical officer of the Sublessee or any other employee of the Sublessee and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof, the Lease and the Security Document have been preserved or replaced. The Sublessor and the Owner-Trustee shall have the right by their respective agents to inspect the Units and the Sublessee's records with respect thereto at such reasonable times as the Sublessor or the Owner-Trustee may request during the continuance of this Sublease.

The Sublessee agrees at its expense to prepare and deliver to the Sublessor and the Owner-Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Sublessor and the Owner-Trustee) any and all reports (other than income tax returns) to be filed by the Sublessor and the Owner-Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Owner-Trustee or the Vendor of the Units or the leasing thereof to the Sublessor or the subleasing thereof to the Sublessee.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE SUBLESSOR DOES NOT MAKE ANY, HAS NOT MADE ANY AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE SUBLESSEE HEREUNDER, AND THE SUBLESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF 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 OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE SUBLESSEE OR OTHERWISE), it being agreed that all such risks, as between the Sublessor and the Sublessee, are to be borne by the Sublessee; but the Sublessor hereby irrevocably appoints and constitutes the Sublessee its agent and attorney-in-fact during the term of this Sublease to assert and enforce from time to time, in the

name of and for the account of the Owner-Trustee, the Sublessor and/or the Sublessee, as their interests may appear, at the Sublessee's sole cost and expense, whatever claims and rights the Owner-Trustee or the Sublessor may have against the Builder. The Sublessor shall have no responsibility or liability to the Sublessee 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 circumstance 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 Sublessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Sublessee, on the one hand, and the Sublessor and the Owner-Trustee, on the other hand, that the Units described therein are in all the foregoing respects satisfactory to the Sublessee; and the Sublessee will not assert any claim of any nature whatsoever against the Sublessor, the Owner-Trustee or the Owner based on any of the foregoing matters.

The Sublessee agrees, for the benefit of the Sublessor, the Owner-Trustee, the Owner and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Sublessee will fully conform therewith at its own expense; provided, however, that the Sublessee may upon written notice to the Sublessor, the Owner-Trustee and the Vendor, 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 Sublessor, the Owner-Trustee or the Vendor, adversely affect the property or rights of the Sublessor, the Owner-Trustee or

the Vendor, respectively, under this Sublease or under the Lease or under the Security Document.

The Sublessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an Addition thereto as hereinbelow provided) which is subject to this Sublease in good operating order, repair and condition, ordinary wear and tear excepted, and, in any event, in the condition that will permit such Unit to qualify as a box car of "XF Class", as defined, as of July 20, 1979, by the Association of American Railroads; provided, however, that the Sublessee shall not be required to keep any Unit in actual "XF" service.

The Sublessee and its affiliates, at their own cost and expense, may from time to time make such alterations, modifications and additions (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the United States Department of Transportation, the Interstate Commerce Commission or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit) (hereinafter collectively called Additions) to the Units as the Sublessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Sublease; provided, however, that no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such addition not been made, assuming the Unit was then in the condition required to be maintained by the terms of this Sublease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Owner-Trustee and be subject to a valid first lien and prior perfected security interest under the Security Document in the following cases: (i) such Part

is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for any such original Part, (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the terms of the second or third paragraph of this § 9 or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Sublessee. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Sublessee shall pay, and shall protect, indemnify and hold the Sublessor, the Owner-Trustee, the Owner, the Investors and the Vendor (for purposes of this paragraph only, as defined in the Security Document), and their respective successors, assigns, principals, agents and servants (hereinafter called Indemnified Persons), as third party beneficiaries hereof, 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 reasonable attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Sublease 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, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Sublessee; (iii) any claim for patent, trademark or copyright infringe-

ment; (iv) any claims based on strict liability in tort or imposed by statute; (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 Sublessee, the Owner-Trustee, the Sublessor or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder) or alleged violation, of any provision of this Sublease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Owner-Trustee's obligations under the Sublease Reassignment, the Security Document or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Owner-Trustee, or any claim arising out of any of the Sublessor's obligations under the Sublease Assignment, the Lease or the Participation Agreement, except to the extent such claim arises from an act or omission of the Sublessor; or (viii) any claim arising out of the Vendor's holding a security interest under the Security Document or the Sublease Reassignment; excluding, however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant under the Security Document by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A to the Security Document. All payments hereunder shall be made directly to the Indemnified Person. The Sublessee 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 Sublessee 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 Sublessee may and, upon such Indemnified Person's reasonable request, will at the Sublessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel

selected by the Sublessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Sublessee to do so, the Sublessee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Sublessee is required to make any payment under this § 9, the Sublessee shall pay or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the discretion of the Indemnified Person), shall be equal to the amount of such payment. The Sublessee and the Sublessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any indemnities as contained in this § 9 by the Sublessee, and provided that no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Sublessee 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 Sublessee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Sublessee pursuant to this § 9 shall be paid over to the Sublessee to the extent necessary to reimburse the Sublessee for indemnification payments previously made in respect of such matter.

The Sublessee further agrees to indemnify, protect and hold harmless the Sublessor and the Owner-Trustee, the Investors, the Vendor and the Owner, as third party beneficiaries hereof, from and against any and all liabilities, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Sublessor or the Owner-Trustee, the Investors, the Vendor or the Owner because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Sublessee and not manufactured by the Builder or of any design, system, pro-

cess, formula or combination specified by the Sublessee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Sublessee will give notice to the Builder of any claim known to the Sublessee from which liability may be charged against the Builder under the Security Document.

In the event that the Owner-Trustee shall become obligated to make any payment to the Investors or the Vendor (for purposes of this paragraph only, as defined in the Security Document) pursuant to Article 13 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, or the Sublessor shall become obligated to make any payment to the Vendor, the Investors or the estate held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Participation Agreement and the Security Document pursuant to any correlative provision of the Lease not covered by the foregoing provisions of this § 9, the Sublessee shall pay such additional amounts to the Owner-Trustee or the Owner or the Sublessor as will enable the Owner-Trustee or the Owner or the Sublessor to fulfill completely its obligations pursuant to said provisions; provided, however, that no such payment shall be required with respect to payments arising as a result of the gross negligence or wilful misconduct of the Owner-Trustee, the Sublessor or the Owner.

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

The foregoing indemnities by the Sublessee shall not constitute a guarantee by the Sublessee of any payment or other obligation, including without limitation the payment of any installments of principal or interest, under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term thereof as such term may or may not be renewed.

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

(A) payment of any part of the rental provided in § 3 or § 13 hereof or payment in respect of any Casualty Occurrence pursuant to § 7 hereof shall not be made by or on behalf of the Sublessee, and such failure to make payment shall continue for 10 business days after such payment is due; or

(B) (x) any representation or warranty of the Sublessee contained in the Participation Agreement or herein (except the representations and warranties contained in § 20 hereof) shall have been incorrect in any material respect as of the date when made, unless (i) such misrepresentation or the breach of such warranty has been cured, if curable, within 30 days after written notice thereof to the Sublessee from the Sublessor, the Owner-Trustee, the Owner or the Vendor, or (ii) there is no material adverse effect on the rights of the Sublessor, the Owner-Trustee or the Vendor hereunder resulting from such misrepresentation or breach or (iii) any damages resulting from such misrepresentation or breach shall have been paid within 30 days after demand therefore, to the satisfaction of the Sublessor, the Owner-Trustee, the Owner and the Vendor, or (y) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Sublessee contained herein or in the Participation Agreement, and such default shall continue for 30 days after written notice from the Sublessor, the Owner-Trustee or the Vendor to the Sublessee specifying the default and demanding that the same be remedied; or

(C) a decree or order is entered in the Reorganization Proceedings preventing or disabling the Sublessee from performing any of its obligations under this Sublease other than a decree, order, disaffirmance or rejection as provided for in the second paragraph of § 4 hereof; or

(D) if the obligations of the Trustee or his successor or successors hereunder are assumed by a corporation or by the Debtor's successor pursuant to a

plan of reorganization for the Debtor approved in the Reorganization Proceedings (such corporation or successor being hereinafter called the Successor) and either

(i) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as such Section 77 may hereafter be amended, or under any other provision of Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Successor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the assumed obligations of the Successor under this Sublease and under the Participation Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by or on behalf of a trustee or trustees or other similar officer appointed (whether or not subject to confirmation or ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or officer, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(ii) any proceedings shall be commenced by or against the Successor for any relief which includes, or might result in, any modification of the assumed obligations of the Successor under this Sublease or under the Participation Agreement under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustments of the assumed obligations of the Successor hereunder or under the Participation Agreement), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the assumed obligations of the Successor under this Sublease and under the Participation Agreement shall not have been and shall not continue to have been duly assumed in

writing, pursuant to a court order or decree, by or on behalf of a trustee or trustees or receiver or receivers or other similar officer appointed (whether or not subject to confirmation or ratification) for the Successor or for the property of the Successor 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 or officers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(E) an event of default set forth in subparagraph (e) with respect to Great American Insurance Company, or in subparagraph (g), of Article 15 of the Security Document shall have occurred or, any other event of default set forth in such Article 15 shall have occurred and either (i) such event results from any default by the Sublessee in performing any of its obligations hereunder or under the Participation Agreement or (ii) the Payments (as defined in the Sublease Reassignment) are not for any reason being applied by the Owner-Trustee as provided in Paragraph 1 of the Sublease Reassignment;

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

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

(b) by notice in writing to the Sublessee terminate this Sublease, whereupon all rights of the Sublessee to the use of the Units shall absolutely cease and terminate as though this Sublease had never been made, but the Sublessee shall remain liable as herein provided; and thereupon the Sublessor may by its agents enter upon the premises of the Sublessee or other premises where any of the Units may be and take possession of all or any such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Sublessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Sublessee for such action or inaction or for any proceeds arising therefrom; but the

Sublessor shall, nevertheless, have a right to recover from the Sublessee any and all amounts which under the terms of this Sublease 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 Sublessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Sublessor, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) 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 Sublease as to such Unit over (2) the then present value of the rentals which the Sublessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 8% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Sublease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Sublessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Sublease other than for the payment of the rental; or (y) an amount 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 amount the Sublessor reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Sublessor shall have sold or leased any Unit, the Sublessor, in lieu of collecting any amounts payable to the Sublessor by the Sublessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Sublessee pay the Sublessor and the Sublessee shall pay to the Sublessor on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such a sale, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding

the date of termination, over the net proceeds of such sale and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Sublease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Sublessor reasonably estimates to be obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Sublease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 8% per annum discount, compounded, in the case of rental which is estimated under clause (II) of this sentence, quarter-annually from the respective dates upon which rentals would have been payable hereunder had this Sublease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

In addition, the Sublessee 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 Sublessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Sublease provided in favor of the Sublessor 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 Sublessee hereby waives any 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 Sublessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make such rental payments regardless of any offset or claim which may be asserted by the Sublessee or on its behalf.

The failure of the Sublessor to exercise the rights granted it hereunder upon the occurrence of any of the con-

tingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Sublessor.

The Sublessee also agrees to furnish the Sublessor, the Owner-Trustee, the Owner and the Vendor, promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default, or which upon 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 § 10, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Sublessee in this Sublease contained, any corporate official of the Sublessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter and the requirements of this Sublease with respect thereto.

§ 11. Return of Units Upon Default. If this Sublease shall terminate pursuant to § 10 hereof, the Sublessee shall forthwith deliver possession of the Units to the Sublessor and shall give prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Sublessor pursuant to this § 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Sublessee, reasonable wear and tear and modifications, if any, permitted by this Sublease excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any Unit or Units to the Sublessor as above required, the Sublessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Sublessor and there assembled,

(b) furnish and arrange for the Sublessor to store such Units on any lines of railroad or premises approved by the Sublessor until such Units have been sold, leased

or otherwise disposed of by the Sublessor, and

(c) cause the Units to be moved to such interchange point or points as shall be designated by the Sublessor upon any sale, lease or other disposal of all or any of the Units.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Sublessee (and the Sublessee will maintain the insurance required by § 7 of this Sublease to be maintained during this period) and are of the essence of this Sublease; and, upon application to any court of equity having jurisdiction in the premises, the Sublessor shall be entitled to a decree against the Sublessee requiring specific performance of the covenants of the Sublessee so to assemble, deliver, store and transport the Units. During any storage period, the Sublessee will permit the Sublessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of any such Unit, to inspect the same. In the event that the Units or any thereof are sold, the Sublessee shall pay to the Sublessor the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Sublessee under the foregoing provisions of this § 11, the Sublessee hereby irrevocably appoints the Sublessor as the agent and attorney of the Sublessee, with full power and authority, at any time while the Sublessee is obligated to deliver possession of any Unit to the Sublessor, to demand and take possession of such Unit in the name and on behalf of the Sublessee from whomsoever shall be in possession of such Unit at the time and to give all appropriate notices and directions to the Association of American Railroads to change the registration of such Unit from the Sublessee to the Sublessor or as the Sublessor may direct.

§ 12. Assignment; Possession and Use. This Sublease shall be assignable in whole or in part by the Sublessor without the consent of the Sublessee; but the Sublessee shall be under no obligation to any assignee of the Sublessor other than the Owner-Trustee, or its reassignee, the Vendor, except upon written notice of such assignment or reassignment

from the Sublessor or the Owner-Trustee. All the rights of the Sublessor hereunder (including, but not limited to, the rights under §§ 6, 7, 10 and 20 and the rights to receive the rentals payable under this Sublease) shall inure to the benefit of the Sublessor's successors and assigns, including the Owner-Trustee, and to the Owner-Trustee's reassigns, including the Vendor, except to the extent the same may be reserved to the Owner-Trustee.

So long as no Event of Default hereunder or event of default under the Security Document (as defined therein) shall have occurred, the Sublessee shall be entitled to the possession of the Units in accordance with the terms of this Sublease but, without the prior written consent of the Sublessor, the Owner-Trustee and the Vendor, the Sublessee shall not assign or transfer its leasehold interest under this Sublease in the Units or any of them, except as hereinafter provided in this § 12. The Sublessee, 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 Owner, the Sublessor, the Owner-Trustee or the Vendor or resulting from claims against the Owner, the Sublessor, the Owner-Trustee or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Sublessor, the Owner-Trustee, the Vendor or the Sublessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, the Owner-Trustee and the Sublessor adversely affect the interest of the Vendor, the Owner-Trustee or the Sublessor in the Equipment, the Vendor's interest in the income and proceeds from the Equipment, or otherwise under this Sublease, the Lease or the Security Document. The Sublessee shall not, without the prior written consent of the Sublessor and the Owner-Trustee, 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 next paragraph.

So long as the Sublessee shall not be in default under this Sublease, the Sublessee shall be entitled to the possession and use of the Units in accordance with the terms

hereof and to permit use of the Units by any railroad company or companies incorporated in the United States of America with which it has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights or over which railroad equipment of such railroad company or companies 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 Sublease, the Lease and the Security Document; provided, however, that the Sublessee shall not assign, sublease or permit the assignment, sublease or use of any Unit predominantly outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), nor shall the Sublessee assign or sublease to, or permit the sublease or use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of the Code. The Sublessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 12 shall be deemed to restrict the right of the Sublessee to assign or transfer its leasehold interest under this Sublease in the Units or possession of the Units to (a) any solvent corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Sublessee hereunder and under the Participation Agreement by an appropriate instrument in writing) into or with which the Sublessee shall have become merged or consolidated or which shall have acquired the property of the Sublessee as an entirety or substantially as an entirety, or (b) any railroad corporation organized under the laws of the United States or any state thereof (which shall have specifically assumed the obligations of the Sublessee hereunder, under the Participation Agreement and under any other instrument or document contemplated hereby or thereby by an appropriate instrument in writing) which, at the time such assignment or transfer thereto shall become effective (1) qualifies as a Class I Railroad under the rules and regulations of the Interstate Commerce Commission, and (2) has outstanding at such time equipment obligations rated "A" (or the equivalent thereof) or better by Moody's

Investors Service or Standard & Poor's Corporation or a successor thereto, which rating shall have been provided thereby during the year preceding such assignment or transfer either in connection with the sale of equipment obligations or by a private letter; provided, in each case, that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition or of such assignment or transfer be in default under any provision of this Sublease.

In case of any sale or conveyance of all or substantially all of the lines of railroad of the Sublessee, or of the lines of the Sublessee on which a substantial portion of the Units are used, the purchaser, or transferee of the purchaser, shall not be at liberty to refuse to accept performance of this Sublease or to disaffirm it and any such purchaser and any such transferee shall assume and agree to perform each and all of the obligations of the Sublessee hereunder.

§ 13. Renewal Options. The Sublessor intends to retain the Units for re-lease at the expiration of the term of this Sublease. Provided that this Sublease has not been earlier terminated and the Sublessee is not in default hereunder the Sublessee may by written notice delivered to the Sublessor not less than six months prior to the end of the original term of this Sublease elect to extend the term of this Sublease in respect of all, but not fewer than all, the Units then covered by this Sublease for one additional three and one-half year period commencing on the scheduled expiration of the original term of this Sublease at a quarterly rental equal to the Rock Island Fair Market Rental Value of each Unit then subject to this Sublease on the date such rental is payable; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Sublease.

Provided the Sublessee exercises the renewal option provided in the first paragraph of this § 13, provided the Sublessor has elected to extend the term of the Lease pursuant to the renewal option provided in the first paragraph of § 13 of the Lease and provided that this Sublease has not been earlier terminated and the Sublessee is not in default hereunder, the Sublessee may by written notice delivered to the Sublessor not less than five months prior to the end of the original term of this Sublease, as extended pursuant to the first paragraph of this § 13, elect to extend the term of

this Sublease in respect of all, but not fewer than all, the Units then covered by this Sublease for one additional three and one-half year period commencing on the scheduled expiration of the term of this Sublease (as so extended), at a quarterly rental rate equal to the Rock Island Fair Market Rental Value of each Unit then subject to this Sublease; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Sublease.

"Rock Island Fair Market Rental Value" shall be determined on the basis of the value which would be obtained as of the commencement of any renewal period in an arm's-length transaction between an informed and willing lessee-user with a credit standing comparable to the credit standing of the Sublessee at the commencement of such period (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease; provided, however, that such Value for any quarterly period shall not be less than the rental payment due under § 3 of the Lease for such period. If, after 30 days from the giving of notice by the Sublessee of the Sublessee's election to extend the term of this Sublease pursuant to the first or second paragraph of this § 13, as the case may be, the Sublessor and the Sublessee are unable to agree upon a determination of the Rock Island Fair Market Rental Value of the Units, the right of the Sublessee to extend this Sublease under the respective election shall expire.

§ 14. Return of Units upon Expiration of Term. On or prior to the termination of the term of this Sublease or as soon as practicable on or after the termination of the term of this Sublease and in any event not later than 90 days after the termination of the term of this Sublease the Sublessee will, at its own cost and expense, at the request of the Sublessor, cause each Unit to be transported to such point or points on the Sublessee's lines as shall be designated by the Sublessor immediately prior to such termination and arrange for the Sublessor to store such Unit on any of the Sublessee's lines of railroad or premises approved by the Sublessor for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 120 days from the date at which at least 95% of such Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of such Units to be at the expense and risk of the Sublessee. During any

such storage period the Sublessee will permit the Sublessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of such Unit, to inspect the same; provided, however, that the Sublessee shall not be liable, except in the case of negligence or wilful wrongdoing of the Sublessee or of its employees or agents and, except to the extent otherwise provided by law, for any injury to or the death of any person exercising, either on behalf of the Sublessor or any prospective purchaser or user, the rights of inspection granted under this sentence. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Sublease, and upon application to any court of equity having jurisdiction in the premises, the Sublessor shall be entitled to a decree against the Sublessee requiring specific performance of the covenants of the Sublessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Sublessor pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Sublessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Owner-Trustee pursuant to § 9 hereof and have removed therefrom at the Sublessee's expense any Part or Addition title to which is not in the Owner-Trustee or any other person pursuant to such § 9 and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. If any Unit suffers a Casualty Occurrence during any period prior to its return to the Sublessor as provided for in this § 14 or during any storage period provided for in this § 14, the Sublessee shall pay to the Sublessor the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of the term of this Sublease as to such Unit, belong to and be the property of the Sublessor. In the event that by the 120th day after the termination of the term of this Sublease the Sublessee has not, at the request of the Sublessor, caused at least 95% of the Units to be transported to such point or points as shall have been designated by the Sublessor pursuant to this § 14, the Sublessee shall pay to the Sublessor the per diem interchange multiplied by the number of Units equal to the difference between 95% of such Units and the number of Units previously delivered pursuant to this § 14 (such number to be determined on each day) for each day from such 120th day to the date on

which at least 95% of the Units have been so transported. If, after the termination of the storage period provided in this § 14, any Units have not been so transported, the Sublessee shall pay to the Sublessor the per diem interchange for each Unit not so transported for each day after the end of such storage period until such Unit or Units have been so transported; provided, however, that if any Unit has not suffered a Casualty Occurrence prior to the first anniversary of the termination of this Sublease and has not been so transported within one year after the termination of the term of this Sublease, such Unit shall be deemed to have suffered a Casualty Occurrence and the Sublessee shall pay or cause to be paid to the Sublessor, on the 10th day after the expiration of such year, an amount equal to the greater of (x) the Casualty Value of such Unit as of such payment date or (y) the Fair Market Value of such Unit as of the date this Sublease terminated and assuming such Unit had not experienced a Casualty Occurrence and was in the condition required to be maintained by the terms of this Sublease. If after 10 days from the expiration of such year, the Sublessor and the Sublessee are unable to agree upon a determination of the Fair Market Value of any such Unit, such value shall be determined in accordance with the appraisal procedure specified in the fourth paragraph of § 13 of the Lease and payment of such amount shall be made on the fifth business day following the determination of such Fair Market Value. "Fair Market Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing buyer (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell.

Upon the expiration of the original term of this Sublease on April 15, 1995, the Sublessee will deliver to the Sublessor and to the Owner-Trustee a certificate of the Sublessee to the effect that (a) no Event of Default or event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of April 15, 1995; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against the Sublessor, the Owner-Trustee or either Owner) were, as of April 15, 1995, imposed on or with respect to any Unit, any accession thereto, or the interest of the Sublessor, the Owner-Trustee or the Owner therein; (c) the Units have been returned to the Sublessor pursuant to this § 14 in the same operating order, repair and condi-

tion required by the first paragraph of this § 14 and (d) the Sublessee no longer has any interest in the Units under the Sublease or otherwise. The certificate described in clause (a) in the preceding sentence shall be furnished on April 15, 1980, and the certificates described in clauses (b), (c) and (d) in the preceding sentence, in addition to being furnished on April 15, 1980, shall be furnished on a monthly basis, beginning on May 15, 1995, and such certificates shall cover each Unit returned during the preceding 30 calendar days and shall apply to each such unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this § 14. Upon the expiration of any extended term of this Sublease, if the Sublessee shall not have elected to exercise any further renewal option (including the renewal option under the second paragraph of § 13 of the Lease) or if the Sublessee shall have no such further renewal option, the Sublessee shall deliver to the Sublessor and the Owner-Trustee a certificate or certificates of an officer of the Sublessee to the foregoing effect, with such conforming changes as shall be appropriate under the circumstances.

§ 15. Recording. The Sublessee, at its own expense, will cause this Sublease, the Lease, the Security Document, the Sublease Assignment, the Sublease Reassignment and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Sublessee will, at its own expense, undertake the filing, registering, deposit, and recording required of the Owner-Trustee under the Security Document and the Sublessor under the Lease 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 Sublessor, the Owner-Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Sublessor's, the Vendor's and the Owner-Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Sublease, the Lease, the Security Document, the Sublease Assignment, or the Sublease Reassignment.

The Sublessee will promptly furnish to the Sublessor, the Vendor and the Owner-Trustee evidence of each such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Sublessee with respect

thereto satisfactory to the Sublessor, the Vendor and the Owner-Trustee. This Sublease, the Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 16. Obligations of Owner-Trustee Under Security Document; Additional Rentals. In the event that the Owner-Trustee shall become obligated to make any payment (other than payments in settlement for Equipment or the principal of or interest on the Conditional Sale Indebtedness (as defined therein) pursuant to the Security Document and pursuant to the proviso to the third paragraph of Article 12 thereof) or to perform any obligations pursuant to the Security Document not covered by the provisions of this Sublease, the Sublessee shall pay such additional rentals hereunder and perform such obligations so that all of the Owner-Trustee's obligations (other than as aforesaid) pursuant to the Security Document shall be fully complied with, without regard for any limitation of liability of the Owner-Trustee contained in the Security Document.

§ 17. Sublessor's Right To Perform for the Sublessee. If the Sublessee fails to perform or comply with any of its agreements contained herein, the Sublessor may upon notice to the Sublessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Sublessor incurred in connection with such performance or compliance, together with interest on such amount at the rate of 10.75% per annum (or such lesser amount as may be legally enforceable), shall be payable by the Sublessee upon demand.

§ 18. 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 Sublessee promptly to pay an amount equal to interest at a rate of 10.75% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 19. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when delivered to such other party or by registered or certified mail, first-class postage prepaid, addressed as follows:

if to the Sublessor, care of Thayer, Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, Attention of President;

if to the Sublessee, at 332 South Michigan Avenue, Chicago, Illinois 60604, Attention of Chief Financial Officer;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party. Any notice to the Sublessee by the Vendor or the Investors regarding the Sublessee's failure to perform any obligation hereunder shall also be furnished by the Sublessee to the Owner-Trustee and the Sublessor.

§ 20. Federal Income Taxes. The Lease and this Sublease were entered into on the basis that an opinion of the chief mechanical officer of the Sublessee to the effect described in subsection (iv) of Paragraph 8 of the Participation Agreement will be provided to the Owner; that the Owner, as the beneficial owner of each Unit, shall be entitled to such deductions, credits and other benefits provided by the Code to an owner of property, including, without limitation, (a) deductions for depreciation of each Unit under section 167 of the Code computed on the basis (i) that each Unit will have a basis under section 167(g) of the Code at least equivalent to the Purchase Price of such Unit, (ii) initially of the declining balance method, using a rate equal to 200% of the straight line rate, switching to the sum of the years-digits method authorized by section 167(b)(3) of the Code in the year in which such switch will result in a greater depreciation deduction than would be available under the declining balance method, without obtaining the consent of the Commissioner of Internal Revenue in accordance with Treasury Regulation § 167(a)-11(c)(1)(iii), (iii) of the asset depreciation range and class life system permitted by section 167(m) of the Code and Treasury Regulation § 1.167(a)-11(a)(1), (iv) of an asset depreciation period of 12 years, (v) of a net salvage value of zero after the reduction permitted by section 167(f)(1) of the Code and (vi) that the Units of Equipment shall be treated as having been placed in service on the respective dates on which they are accepted

and delivered under this Lease and the Security Document (hereinafter called the ADR Deductions), (b) deductions with respect to interest payable on the Conditional Sale Indebtedness (hereinafter called the Interest Deductions), and (c) investment credit pursuant to section 38 of the Code at least equal to 10% of the aggregate Purchase Price of such Unit (hereinafter called the Investment Credit). This Sublease has also been entered into on the assumption that (1) for Federal income tax purposes all amounts includible in the gross income of the Owner with respect to the Equipment and all deductions allowable to the Owner with respect to the Equipment will be treated as derived from, or allocable to, sources within the United States, (2) for purposes of computing the ADR Deductions with respect to the Equipment for the calendar year in which the Units of Equipment were first placed into service, the Owner will be entitled to elect and will elect the half-year convention and (3) the Federal rate of tax imposed on taxable income of corporations in excess of $100,000 will be 46% through the date of acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

The Sublessee agrees that neither it nor any corporation controlled by it or the Debtor, in control of it or the Debtor, or under common control with it or the Debtor, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing.

The Sublessee agrees to use its best efforts to maintain or cause to be maintained sufficient records to verify the amount of income and deductions in respect of each Unit of Equipment allocable to sources within and without the United States. The Sublessee agrees to give the Owner, within 60 days after request therefor, written notice describing the amount of income and deductions allocable to sources within and without the United States and specifying in reasonable detail the basis on which such allocations were made, if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner. In addition, within 90 days after the end of each calendar year, beginning with the year 1979, the Sublessee agrees to furnish to the Owner a statement to the effect that none of the Equipment has been used outside of

the United States other than in Canada or Mexico on a temporary basis not exceeding 90 days during the preceding calendar year, or if any of the Equipment was used outside the United States other than as aforesaid during such year, giving the appropriate details of any such use, which statement shall be signed by the chief financial officer of the Sublessee.

The Sublessee represents and warrants that (i) all of the Units constitute property the entire Purchase Price of which qualifies for the Investment Credit under section 50 of the Code; (ii) at the time the Owner-Trustee becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of section 48(b) of the Code and at the time the Owner-Trustee becomes the owner of the Units, the Units will not have been used or placed in service by any person so as to preclude "the original use of such property" within the meaning of sections 48(b) and 167(c)(2) of the Code from commencing with the Owner-Trustee; (iii) at all times during the original term of this Sublease and all renewal terms, each Unit will constitute "section 38 property" within the meaning of section 48(a) of the Code; and (iv) at all times during the original term of this Sublease and the renewal periods, the Owner will be entitled to treat, for Federal income tax purposes, each item of income, deduction, and credit relating to all Units subject to this Sublease as being derived from, or allocable to, sources within the United States.

If, for Federal income tax purposes, as a result of any reason whatsoever, but excluding any of the specific occurrences or events specified in the sixth paragraph of this § 20, (a) the Owner shall not be entitled to, shall suffer a disallowance or recapture of, shall lose the benefit of, or shall lose the right to claim (including a good faith determination based upon the opinion, to be obtained at the cost of the Sublessee, of independent tax counsel of the Owner approved by the Lessee ("Special Tax Counsel"), which approval shall not unreasonably withheld, that there is no reasonable basis to make such claim), all or any portion of the Investment Credit, the ADR Deductions or the Interest Deductions or (b) any item of income, deduction or credit with respect to the Equipment shall not be treated as derived from, or allocable to, sources within the United States (any such event described in clause (a) or (b) of this paragraph being hereinafter called a Loss), then the Sublessee, at its option, after receiving written notice from the

Sublessor of such Loss together with a certificate of an officer of the Sublessor setting forth in reasonable detail the computations and methods used in calculating such Loss and the amount or amounts of the payments required to be made pursuant to clause (i) or (ii) below (such notice and certificate being hereinafter collectively called the Net Economic Return Notice), shall either (i) commencing with the next rental payment date occurring more than 30 days after receipt by the Sublessor of the Net Economic Return Notice, which Net Economic Return Notice may not be delivered more than 30 days prior to payment by the Owner of the tax which becomes due as a result of the Loss, increase the rental payments under this Sublease over its remaining term by an amount as shall cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such Loss had not occurred, such increase in the rental payments to be made directly to the Owner, or (ii) within 30 days of receipt of the Net Economic Return Notice, pay to the Owner in lump sum the amount as shall, in the reasonable opinion of the Owner, be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred. If the option under (ii) above is selected, then to the extent any Loss results in a later benefit to the Owner which has not been taken into account in determining the lump sum payment, payment will be made to the Sublessee at the time such benefit is realized; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Sublessee to the Owner pursuant to the option specified in (ii) above in respect of a Loss less (y) the amount of all prior payments by the Owner to the Sublessee hereunder, and the amount by which such payment would exceed such amounts shall reduce pro tanto any subsequent obligation of the Sublessee to make any payments to the Owner pursuant to the option specified in (ii) above. The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions as were utilized by the Owner in originally evaluating the transaction except for the assumption that has resulted in such adjustments.

In the event that the Owner suffers a Loss and the Owner and the Sublessee are unable to agree within 60 days following the Sublessee's receipt of a Net Economic Return

Notice on the indemnity amounts or amounts required to restore the Owner's Net Economic Return, then the Sublessee shall pay in lump sum, within 30 days after expiration of said 60-day period, such amount as shall, in the reasonable opinion of the Owner (regardless of whether the Sublessee agrees therewith), be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred.

If there is any amendment to, or change in, the Code or any regulation thereunder which is effective on or prior to the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Sublease, and if such amendment or change affects the privilege of the Owner to file consolidated Federal, state and local income tax returns with corporations affiliated with it, or the Federal rate of tax on the taxable income of corporations, then the amounts of rentals and the Casualty Values under this Sublease will be appropriately adjusted by such amount or amounts as shall, in the reasonable opinion of the Owner, cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such amendment or change had not occurred; provided, however, that the rentals and Casualty Values, as so adjusted, shall not be less than amounts sufficient to satisfy the obligations of the Owner-Trustee under the Security Document.

Any late payment by any party hereto of any of its obligations under this § 20 shall result in the obligation on the part of such party promptly to pay an amount equal to interest at the rate per annum equal to 1% in excess of the Prime Rate compounded quarterly on the overdue payment. Prime Rate as used herein shall mean the rate per annum which Manufacturers Hanover Trust Company, New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable.

Notwithstanding anything to the contrary set forth hereinabove, no amount shall be payable as an indemnity here under to the Owner in respect of any Loss to the extent such Loss is the result of any of the following on the part of the Owner:

(i) a voluntary transfer or voluntary disposition (whether prior to, during or after the term of the

Lease or this Sublease, but not including a transfer or disposition as a result of a Casualty Occurrence) of any Units or of the interest of the Owner in any Units or the rentals under the Lease or this Sublease, or any transfer or disposition of any Units or of the interest of the Owner in any Units or the rentals under the Lease or this Sublease, whether voluntary or involuntary, which results from bankruptcy or other proceedings for the relief of debtors in which the Owner is the debtor, unless, in each case, such transfer or disposition is made (A) after an Event of Default, as defined in § 10 of this Sublease, has occurred and is continuing; (B) in connection with any alteration, modification or addition to any Unit; or (C) with the consent of the Sublessee;

(ii) the failure of the Owner to claim in a timely manner the Investment Credit, the ADR Deductions (including making all appropriate elections under the applicable Income Tax Regulations), the Interest Deductions or any foreign tax credit or to make a timely election, if permitted by the Code, to treat income and deductions with respect to the Equipment as derived from, or allocable to, sources within the United States, unless Special Tax Counsel of the Owner shall have given its opinion to the Owner that such claim is not allowable;

(iii) the failure of the Owner to have sufficient liability for Federal income tax against which to credit Investment Credit or foreign tax credit or sufficient income to benefit from the ADR Deductions or the Interest Deductions, as applicable;

(iv) any residual sharing, guarantee agreement or other voluntary act of the Owner (either individually or in concert with others) which is not included in the foregoing clauses and which is not required or contemplated by the Security Document, the Participation Agreement, the Trust Agreement, the Lease, this Sublease, the Sublease Assignment, the Sublease Assignment Consent, the Lease Assignment, the Consents, the Assignment, the Bond, the Assumption Agreement if entered into or any other document contemplated by any of the foregoing or entered into in connection therewith;

(v) a change in the form or type of organization or the taxable status of the Owner or any successor or transferee of the Owner;

(vi) a Casualty Occurrence with respect to a Unit, if the Owner-Trustee shall have received all amounts required to be paid in respect of such Casualty Occurrence under the Lease;

(vii) any amendment to, or change in, the Code or the Income Tax Regulations which is effective after acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document, the Lease and this Sublease; or

(viii) termination of this Sublease, pursuant to the second paragraph of § 4 hereof, upon a finding by the Court that the Sublessee is unable to transport the traffic offered the Sublessee because of the Sublessee's cash position or that other facts make the Sublessee's continuing operation of the Debtor impossible and upon an order of the Court that the Sublessee discontinue service and/or liquidate the assets of the Debtor or upon a disaffirmance or rejection of this Sublease pursuant to a plan of reorganization in the Reorganization Proceedings.

If at the conclusion of an audit the Owner receives a preliminary or "30-day" letter from the Internal Revenue Service proposing an adjustment in any item claimed in accordance with the fifth paragraph of this § 20 on a tax return or refund claim of the Owner for which the Sublessee would be required to indemnify the Owner pursuant to this § 20 and the amount of the indemnity which the Sublessee would be required to pay would exceed $100,000 or in the good faith opinion of the Sublessee, the adjustment would have a substantial and continuing precedental adverse effect on the Lessee or the Sublessee or the railroad industry and the Sublessee so advises the Owner in writing, then, if requested by the Sublessee in a timely written request, the Owner shall request an opinion from Special Tax Counsel of the Owner as to whether the basis in law and in fact in favor of allowance of the item proposed to be adjusted outweighs the basis in law and in fact to the contrary. If the opinion is to that effect and if the Sublessee promptly requests the Owner to do so, the Owner shall contest the proposed adjustment; provided, however, that Special Tax Counsel of the Owner shall determine the nature of all action to be taken to contest such proposed adjustment including (A) whether any action to contest such proposed adjustment shall initially be by way of judicial or administrative proceedings, or both, (B) whether any such proposed adjustment shall be contested by resisting payment thereof or by paying the same and seeking a refund thereof,

and (C) if the Owner shall undertake judicial action with respect to such proposed adjustment, the court or other judicial body before which such action shall be commenced. The Owner shall have full control over any contest pursuant to this paragraph and shall not be obligated to appeal an adverse determination by any court if the Owner shall have obtained an opinion from its Special Tax Counsel that the basis in law and in fact in favor of a favorable outcome in the event such determination is appealed outweighs the basis in law and in fact to the contrary there is no reasonable likelihood of a favorable outcome in the event such determination is appealed. At any time, whether before or after commencing to take the action set forth in this paragraph, the Owner may decline to take such action by notifying the Sublessee in writing that the Sublessee is relieved of its obligation to indemnify the Owner with respect to the adjustment proposed by the Internal Revenue Service or such portion thereof as may be specified in such notice.

The Owner shall not be required to take any action pursuant to the preceding paragraph unless and until the Sublessee shall have agreed to indemnify the Owner in a manner reasonably satisfactory to the Owner for any liability or loss which the Owner may incur as a result of contesting the validity of any proposed adjustment and shall have agreed to pay to the Owner on demand all costs and expenses which the Owner may incur in connection with contesting such proposed adjustment (including reasonable fees and disbursements of counsel selected by the Owner). If the Owner determines to contest any adjustment by paying the additional tax and suing for a refund, the Sublessee shall have paid to the Owner an amount equal to the sum on an after-tax basis of any tax, interest, penalties and additions to tax which are required to be paid. Upon receipt by the Owner of a refund of any amounts paid by it based on the adjustment in respect of which amounts it shall have been paid an equivalent amount by the Sublessee, the Sublessor shall pay to the Sublessee when received from the Owner the amount of such refund together with any interest received by it on such amount, and if such refund is not taxable income to the Owner, and if payment under this or the preceding paragraph to the Sublessee is deductible by the Owner for Federal income tax purposes, then the Sublessor shall also pay to the Sublessee when received from the Owner the amount by which the Owner's taxes are reduced as the result of such deduction; provided, however, that in no event shall the total amount paid to the Sublessee pursuant to this or the preceding paragraph with respect to a particular refund exceed the amount paid by the Sublessee to the Owner in connection with

the payments made pursuant to the immediately preceding sentence to which such refund relates.

For purposes of this § 20, the term "Owner" shall include any affiliated group, within the meaning of section 1504 of the Code, of which the Owner is a member if consolidated returns are filed for such affiliated group for Federal income tax purposes.

If the Owner is required by the Internal Revenue Service to include in its gross income an amount in respect of any improvement and/or addition to such Unit of Equipment made by the Sublessee, title to which vests in the Owner or the Owner-Trustee (which amounts are hereinafter called Capital Expenditures), then the Sublessee shall pay directly to the Owner, as an indemnity, in immediately available funds, such amount or amounts which, after deduction of all taxes required to be paid by the Owner in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority of the United States, shall be equal to the sum of the aggregate additional Federal, state or local income taxes payable by the Owner from time to time as a result of such Capital Expenditure plus the amount of any interest, penalties or additions to tax payable as a result of any such Capital Expenditure (less any Federal, state or local tax benefits resulting from payment of any amounts reimbursed hereunder). If as a result of any such Capital Expenditure the aggregate Federal, state or local income taxes paid by the Owner for any taxable year shall be less than the amount of such taxes which would have been payable by the Owner had no such Capital Expenditure been made, then the Sublessor shall pay the Sublessee (when received by the Sublessor from the Owner) the amount of such savings in taxes plus any additional tax benefits realized by the Owner as a result of such payment; provided, however, that the Sublessor shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Sublessee to the Owner pursuant to this paragraph in respect of any Capital Expenditures less (y) the amount of all prior payments by the Sublessor to the Sublessee hereunder, and the amount by which such payment would exceed such amount shall reduce pro tanto any subsequent obligation of the Sublessee to make any payments to the Owner pursuant to the first sentence of this paragraph. The amount payable to the Owner pursuant to this paragraph shall be paid within 30 days after receipt of the written

demand therefor from the Owner (but not prior to payment by the Owner of the additional Federal, state or local income tax, as the case may be, which becomes due as a result of the said inclusion) accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Sublessee from the Sublessor pursuant to this paragraph shall be paid immediately after the Sublessor receives from the Owner the amount that the Owner realized from any such savings in its income taxes or additional tax benefits, as the case may be. The Sublessor agrees to cause the Owner to contest the inclusion in its gross income of any amount with respect to a Capital Expenditure to the extent, and under the circumstances, set forth in the ninth and tenth paragraphs of this § 20.

The Sublessee agrees to give the Owner, within 30 days after request therefor, written notice describing in reasonable detail Capital Expenditures made and specifying the cost thereof with respect to each Unit of Equipment if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner.

In the event that any indemnity payments are required to be made by the Sublessee, or in the event the amount of rentals under this Sublease are adjusted, pursuant to any paragraph of this § 20, the damages and amounts set forth in § 10 of this Sublease and the applicable Casualty Value percentages set forth in Schedule B to this Sublease shall be appropriately adjusted by the Owner (but in no event shall the applicable Casualty Values be reduced below the corresponding Fair Values as defined in the Security Document). The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions, including, without limitation, tax rates, as were utilized by the Owner in originally evaluating this transaction except for the assumption that has resulted in such adjustment. In connection therewith, the Sublessor shall cause the Owner to provide the Sublessee with a certificate of an officer of the Owner setting forth in reasonable detail the figures and methods used in making such calculations. In the case of any such adjustments in the damages and amounts set forth in § 10 of this Sublease and the applicable Casualty Value percentages set forth in Schedule B to this Sublease, if any payment of such damages, amounts or Casualty Values shall have been made

prior to the adjustments made pursuant to this paragraph, (a) the Sublessee shall pay to the Owner the excess amount which would have been payable on the due date of such payment by reason of the adjustments pursuant to this paragraph or (b) the Sublessor shall pay to the Sublessee when received from the Owner the amount of such payments in excess of the amount of such payments which would have been payable by reason of the adjustments pursuant to this paragraph. The Sublessee's and the Sublessor's agreements to pay any sums which may become payable pursuant to this § 20 shall survive the expiration or other termination of this Sublease and the Lease.

The Sublessee shall have the right, upon demand, to have Thayer Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, or another independent party selected by the Sublessee and approved by the Owner, which approval shall not be unreasonably withheld, review any calculations made by the Owner pursuant to this § 20 to determine the consistency of the methods and the assumptions used in such calculations with those used by the Owner in originally evaluating this transaction and the accuracy of such computations based on such methods and assumptions.

The liability of the Sublessee to make indemnification payments pursuant to this § 20 shall, notwithstanding any expiration or termination of this Sublease, continue to exist until such indemnity payments are made by the Sublessee. All indemnity payments under this § 20 shall be made directly to the Owner.

§ 21. Severability; Effect and Modification of Sublease; Third Party Beneficiaries. Any provision of this Sublease 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.

This Sublease exclusively and completely states the rights of the Sublessor and the Sublessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement and the Lease. No variation or

modification of this Sublease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Sublessor and the Sublessee and no such variation shall be made without the prior written consent of the Vendor and the Owner-Trustee.

Nothing in this Sublease shall be deemed to create any right in any person not a party hereto (other than the Sublessor, the Owner, the Builder, the Owner-Trustee, the Vendor and the permitted successors and assigns of a party, each of which shall be deemed to be a third party beneficiary hereof) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

§ 22. Other Obligations. The Sublessee agrees that, during the term of this Sublease, the Sublessee will not assume or enter into any other leases of equipment, equipment trust agreements, conditional sale agreements or other liabilities or obligations in connection with the leasing or financing of the acquisition of equipment or other tangible personal property, (i) if such liabilities or obligations would be entitled, directly or indirectly, to any priority in right of payment over the obligations of the Sublessee under this Sublease, or (ii) if such liabilities or obligations would be secured, directly or indirectly, by any mortgage, lien or other security interest in property of the Debtor or the Sublessee (except the equipment or other property involved in the particular transaction) unless the obligations of the Sublessee under this Sublease are equally and ratably secured thereby, provided that nothing herein shall restrict the right of the Trustee to issue and sell trustees' certificates for any proper purpose.

It is hereby expressly understood and agreed that any and all obligations of the Sublessee hereunder and any and all amounts payable in connection therewith, including but not limited to amounts payable under §§ 3 and 7 hereof and obligations arising out of any breach of warranty or breach or termination of this Sublease, or otherwise, together with interest thereon to the date of payment thereof, shall be and deemed to be necessary costs and expenses of administration incurred by the Trustee in the Reorganization Proceedings and shall rank equally and ratably with all other expenses of administration of the Trustee, except trustees' certificates heretofore or hereafter issued by the Trustee;

and, without limitation of the foregoing, to the extent that the free assets are not sufficient to pay in full in cash such obligations, such obligations, together with interest thereon as herein provided, shall be paid in full in cash out of the liened assets prior to any payment or other distribution being made to the Bondholders.

For the purpose of this Sublease:

(a) The term "free assets" shall mean any and all property and assets of the Sublessee and the Debtor's estate of every kind and description, tangible and intangible (including cash on hand and on deposit), not subject to mortgage, pledge, lien, trustees' certificates, equipment trusts or other encumbrances.

(b) The term "liened assets" shall mean any and all property and assets of the Sublessee and the Debtor's estate of every kind and description, tangible and intangible, subject to the lien of the mortgage securing the Bonds.

(c) The term "Bonds" shall mean any bonds issued by the Debtor, including the following: the First Mortgage Bonds, Series A due 1980, Series C due 1983, Series G due 1993, Series H due 2004 and Series I due 2004.

(d) The term "Bondholders" shall mean the holders of any of the Bonds issued by the Debtor.

§ 23. Execution. This Sublease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although for convenience this Sublease 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.

§ 24. Law Governing. The terms of this Sublease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

IN WITNESS WHEREOF, the parties hereto have exe-

cuted or caused this instrument to be executed as of the date first above written.

WILLIAM M. GIBBONS,

_____[Seal]
As TRUSTEE OF THE PROPERTY
OF CHICAGO, ROCK ISLAND
AND PACIFIC RAILROAD COMPANY,
and not individually

Witness:

_____

GAMS TRANSPORTATION, INC.,

[CORPORATE SEAL]

by

_____

Attest:

_____

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

On this day of 1979, before me personally appeared William M. Gibbons, to me pesonally known who, being by me duly sworn, says that he is the TRUSTEE OF THE PROPERTY OF THE CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, signer and sealer of the foregoing instrument, and he acknowledged the same to be his free act and deed, as such Trustee pursuant to specific orders of the United States District Court for the Northern District of Illinois in proceedings bearing No. 75B-2697, before me.

_____
Notary Public

[Notarial Seal]

My Commission Expires

STATE OF CALIFORNIA,)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is , of GAMS TRANSPORTATION, INC., 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.

_____
Notary Public

[Notarial Seal]

My Commission Expires

Schedule A to the Sublease

Type	Builder's Specification	Builder's Plant	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Road Numbers (Inclusive)	Estimated Time of Delivery
50 foot, 6 inch 70-ton Class XF boxcar	No. 1042, dated March 29, 1979, as amended	Bessemer, Alabama	308	$40,900	$12,597,200	ROCK 302042 through ROCK 302249 W&OV 1 through W&OV 100	July-August 1979

Place of delivery: Bessemer, Alabama

SCHEDULE B
to
SUBLEASE

Casualty Values*

Item I:	Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**		Percentage of Purchase Price
	4/1980	1	85.23	1/1990	40	67.11
	7/1980	2	85.76	4/1990	41	65.98
	10/1980	3	86.20	7/1990	42	64.82
	1/1981	4	86.49	10/1990	43	63.65
	4/1981	5	86.79	1/1991	44	62.45
	7/1981	6	87.07	4/1991	45	61.25
	10/1981	7	87.28	7/1991	46	60.01
	1/1982	8	87.44	10/1991	47	58.75
	4/1982	9	87.51	1/1992	48	57.48
	7/1982	10	87.56	4/1992	49	56.21
	10/1982	11	87.42	7/1992	50	54.90
	1/1983	12	87.35	10/1992	51	53.59
	4/1983	13	87.23	1/1993	52	52.26
	7/1983	14	87.08	4/1993	53	50.93
	10/1983	15	86.83	7/1993	54	49.58
	1/1984	16	86.51	10/1993	55	48.23
	4/1984	17	86.24	1/1994	56	46.87
	7/1984	18	85.90	4/1994	57	45.50
	10/1984	19	85.48	7/1994	58	44.14
	1/1985	20	84.98	10/1994	59	42.76
	4/1985	21	84.47	1/1995	60	41.39
	7/1985	22	83.93	4/1995	61	40.01
	10/1985	23	83.30	7/1995	62	38.63
	1/1986	24	82.61	10/1995	63	37.25
	4/1986	25	81.90	1/1996	64	35.87
	7/1986	26	81.27	4/1996	65	34.49
	10/1986	27	80.49	7/1996	66	33.11
	1/1987	28	79.15	10/1996	67	31.73
	4/1987	29	78.06	1/1997	68	30.35
	7/1987	30	77.21	4/1997	69	28.98
	10/1987	31	76.32	7/1997	70	28.62
	1/1988	32	75.40	10/1997	71	28.25
	4/1988	33	74.45	1/1998	72	27.87
	7/1988	34	73.48	4/1998	73	27.48
	10/1988	35	72.48	7/1998	74	27.09
	1/1989	36	71.45	10/1998	75	26.69
	4/1989	37	70.40	1/1999	76	26.27
	7/1989	38	69.32	4/1999	77	25.85
	10/1989 and thereafter	39	68.23	7/1999	78	25.42

* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

SCHEDULE B
to
SUBLEASE

Casualty Values*

Item I:

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**	Percentage of Purchase Price
10/1999	79	24.98		
1/2000	80	24.53		
4/2000	81	24.07		
7/2000	82	23.60		
10/2000	83	23.12		
1/2001	84	22.63		
4/2001	85	22.13		
7/2001	86	21.61		
10/2001	87	21.09		
1/2002	88	20.55		
4/2002	89	20.00		
and thereafter				

Item II:

Anniversary of Delivery and Acceptance	Percentage of Purchase Price
Third	19.64444
Fifth	13.09630
Seventh	6.54815

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* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

Appendix B to
Lease

ASSIGNMENT OF SUBLEASE AND AGREEMENT

Dated as of July 20, 1979

between

GAMS TRANSPORTATION, INC.,
as Lessee,

and

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely
as Owner-Trustee for General Electric Credit Corporation,
as Owner-Trustee.

ASSIGNMENT OF SUBLEASE AND AGREEMENT dated as of July 20, 1979, between GAMS TRANSPORATION, INC. (hereinafter called the Lessee), and FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof, with General Electric Credit Corporation.

The Owner-Trustee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), providing for the sale to the Owner-Trustee of such units of railroad equipment (hereinafter called the Units) described in Annex B thereto as are delivered to and accepted by the Owner-Trustee thereunder.

The Owner-Trustee and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) providing for the leasing by the Owner-Trustee to the Lessee of the Units.

The Lessee and William M. Gibbons, Trustee of the Property of the Chicago, Rock Island and Pacific Railroad Company (hereinafter called the Sublessee), have entered into a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease) providing for the leasing by the Lessee to the Sublessee of the Units.

In order to provide security for the obligations of the Lessee under the Lease and under the Participation Agreement hereinafter referred to and as an inducement to Investors (as that term is defined in the Participation Agreement) (hereinafter called the Investors) to invest in the Conditional Sale Indebtedness (as that term is defined in the Security Document), the Lessee agrees to assign for security purposes all its rights in, to and under the Sublease to the Owner-Trustee.

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter

and the Participation Agreement and, therefore, the execution and delivery of this Sublease Assignment shall not subject the Owner-Trustee to, or transfer, or pass, or in any way affect or modify the liability of the Lessee under the Sublease, it being understood and agreed that notwithstanding this Sublease Assignment or any subsequent assignment, all obligations of the Lessee to the Sublessee shall be and remain enforceable by the Sublessee, its successors and assigns, against, and only against, the Lessee or persons other than the Owner-Trustee and the Vendor.

3. To protect the security afforded by this Sublease Assignment, but subject to the provisions of Paragraph 11 hereof, the Lessee agrees as follows:

(a) The Lessee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Sublease provides are to be performed by the Lessee; without the written consent of the Owner-Trustee and, so long as the Conditional Sale Indebtedness is outstanding, the Vendor, the Lessee will not anticipate the rents under the Sublease or waive, excuse, condone, forgive or in any manner release or discharge the Sublessee of or from the obligations, covenants, conditions and agreements to be performed by the Sublessee which are intended to satisfy the obligations of the Lessee under the Lease, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement so amending, modifying or terminating the Sublease and the Lessee agrees that any such amendment, modification or termination thereof without such consent shall be void.

(b) Should the Lessee fail to make any payment or to do any act which this Sublease Assignment requires the Lessee to make or do, then the Owner-Trustee or, so long as the Conditional Sale Indebtedness is outstanding, the Vendor, but without obligation so to do, after first making written demand upon the Lessee and affording the Lessee a reasonable period of time within which to make such payment or do such act, but without releasing the Lessee from any obligation hereunder, may make or do the same in such manner and to such extent as the Owner-Trustee or Vendor may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear

in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Owner-Trustee and the Vendor, and also the right to perform and discharge each and every obligation, covenant and agreement of the Lessee contained in the Sublease; and in exercising any such powers, the Owner-Trustee and the Vendor may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Lessee will reimburse the Owner-Trustee and the Vendor for such costs, expenses and fees.

4. Subject to the provisions of Paragraph 11 hereof, the Lessee does hereby constitute the Owner-Trustee the Lessee's true and lawful attorney, irrevocably, with full power (in the name of the Lessee, 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 Sublease to which the Lessee is or may become entitled, to enforce compliance by the Sublessee with all the terms and provisions of the Sublease, 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 to the Owner-Trustee may reasonably seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Lessee's obligations under the Lease and the Participation Agreement, this Sublease Assignment and all rights herein assigned to the Owner-Trustee shall terminate, and all estate, right, title and interest of the Owner-Trustee and Vendor in and to the Sublease shall revert to the Lessee, but the Owner-Trustee shall execute and deliver such documents as the Lessee may reasonably request in order to confirm, or make clear upon public records, such termination and/or reversion.

6. The Lessee will pay and discharge any and all claims, liens, charges or security interests (other than created by the Security Document) on the Sublease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessee, or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the Participation Agreement, the Security Document, the Sublease or the Lease (but including tax liens arising out of the receipt of the income and proceeds from the Units) unless such claims, liens,

charges or security interests would rank subordinate to the interests of the Owner-Trustee and the Vendor in and to the Sublease and of the Vendor in and to the Lease or such rentals or other payments, or unless the Lessee shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not materially adversely affect such interests of the Vendor and the Owner-Trustee, in the reasonable opinion of the Vendor and the Owner-Trustee, respectively.

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

8. The Owner-Trustee may assign all or any of the rights assigned to it hereby or arising under the Sublease, including, without limitation, the right to receive any Payments due or to become due and the power to act as the Sublessee's true and lawful attorney, and the parties hereto acknowledge that this Sublease Assignment is to be reassigned to the Vendor as aforesaid. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Owner-Trustee hereunder. The Owner-Trustee will give written notice to the Lessee and the Sublessee of any such assignment other than the assignment to the Vendor.

9. This Sublease Assignment shall be governed by the laws of the State of Ohio, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

10. So long as the Conditional Sale Indebtedness is outstanding, the Lessee shall cause copies of all notices received in connection with the Sublease and all payments thereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the Security Document or at such other address as the Vendor shall designate.

11. The Owner-Trustee hereby agrees with the Lessee that, so long as no Event of Default, or any event which with lapse of time or notice or both would constitute such an Event of Default, under the Lease has occurred and is then continuing, the Owner-Trustee will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of

the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessee to the Owner-Trustee by this Sublease Assignment, except the right to receive, forward and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Sublease, the Lease and the Security Document, the Lessee may, so long as no Event of Default or event which with notice or lapse of time or both would constitute such an Event of Default under the Lease has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges and remedies under the Sublease (except, unless the Sublease shall be terminated, the right to receive, forward and apply Payments as provided in Paragraph 1 hereof or to amend, modify or waive any provisions of the Sublease such that the Sublease would fail to meet the requirements of a sublease as provided in the fourth paragraph of § 12 of the Lease), including its rights, powers, privileges and remedies arising out of subparagraphs (a) and (b) of the first paragraph of § 10 of the Sublease.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

GAMS TRANSPORTATION, INC.,

by _____

[Corporate Seal]

Attest:

_____

FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Owner-Trustee,

by _____

[Corporate Seal]

Attest:

_____
Authorized Officer

STATE OF CALIFORNIA,)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is of GAMS TRANSPORTATION, INC., 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.

Notary Public

[Notarial Seal]

My Commission Expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, 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 By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission Expires

SUBLESSEE'S CONSENT AND AGREEMENT

On March 17, 1975, the Chicago, Rock Island and Pacific Railroad Company, Debtor, filed a petition for reorganization under Section 77 of the Bankruptcy Act in the United States District Court for the Northern District of Illinois and such petition was duly approved as properly filed and by order entered on April 4, 1975, by such Court the undersigned William M. Gibbons was duly qualified as Trustee of the Property of the Chicago, Rock Island and Pacific Railroad Company, Debtor. The undersigned, the Sublessee named in the Sublease referred to in the foregoing Sublease Assignment (hereinafter called the Assignment), 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 Investors, as such term is defined in the Security Document referred to in the Assignment, to invest in the Conditional Sale Indebtedness (as so defined) pursuant to which First Security State Bank, not in its individual capacity but solely as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Owner-Trustee), is in part financing its purchase of units of railroad equipment (hereinafter called the Units) and to the Owner-Trustee to purchase such Units pursuant to the Security Document (as defined in the Assignment), which Units the Owner-Trustee is leasing to GAMS Transportation, Inc. (hereinafter called the Lessee), pursuant to the Lease (as defined in the Assignment) and the Lessee is leasing to the Sublessee pursuant to the Sublease; and in consideration of other good and valuable consideration, the Sublessee agrees that:

(1) subject to the terms and conditions of the Assignment, the Sublessee will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Sublease and assigned to the Owner-Trustee by the Assignment (other than indemnity payments under § 6 and § 20 of the Sublease payable to the Lessee, which shall be paid to the Owner-Trustee at its address set forth in the Participation Agreement referred to below) (which moneys are hereinafter called the Payments) due and to become due to the Lessee under the Sublease in respect of the Units leased thereunder, directly to the First Security Bank of Utah, N.A., as agent (hereinafter called

the Agent) under the Participation Agreement referred to in the Assignment, to be applied as provided in the first paragraph of Paragraph 10 of the Participation Agreement, to its address at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) the Owner-Trustee shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Sublessee under the Sublease as though the Owner-Trustee were named therein as the Lessee;

(3) the Owner-Trustee shall not, by virtue of the Sublease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Sublease or otherwise;

(4) the Sublease shall not, without the prior written consent of the Owner-Trustee and, so long as the Conditional Sale Indebtedness is outstanding, the Agent, be terminated (other than pursuant to the second paragraph of § 4 thereof) or modified, nor shall any action be taken or omitted by the Sublessee the taking or omission of which might result in an alteration or impairment of the Sublease or the Sublease Assignment or this Consent and Agreement or of any of the rights created by any thereof; and

(5) it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Sublease and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Consent and Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the

Owner-Trustee by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Illinois and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of July 20, 1979

WILLIAM M. GIBBONS,

_____ [Seal]
As TRUSTEE OF THE PROPERTY
OF CHICAGO, ROCK ISLAND AND
PACIFIC RAILROAD COMPANY,
and not individually.

Witness:

_____

Accepted:

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by _____

[SEAL]

Attest:

_____

CONDITIONAL SALE AGREEMENT

Dated as of July 20, 1979

between

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely as Owner-Trustee
for General Electric Credit Corporation

and

PULLMAN INCORPORATED (Pullman Standard Division),

as Builder,

CONDITIONAL SALE AGREEMENT dated as of July 20, 1979, between PULLMAN INCORPORATED (Pullman Standard Division) (hereinafter called the Builder or the Vendor, as the context may require, as more particularly set forth in Article 1 hereof), and FIRST SECURITY STATE BANK, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement), with General Electric Credit Corporation (hereinafter called the Owner).

The Builder agrees to construct, sell and deliver to the Owner-Trustee, and the Owner-Trustee agrees to purchase, the railroad equipment described in Annex B hereto (hereinafter called the Equipment).

The Owner-Trustee is entering into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) with GAMS Transportation, Inc. (hereinafter called Great American or the Lessee), in substantially the form annexed as Annex C hereto.

Great American is entering into a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease) with William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company (hereinafter called the Railroad) in substantially the form annexed to the Lease as Appendix A thereto, and Great American will assign the Sublease to the Owner-Trustee as security for payment and performance of Great American's obligations under the Lease pursuant to an Assignment of Sublease and Agreement dated as of the date hereof (hereinafter called the Sublease Assignment) substantially in the form of Appendix B to the Lease and the Railroad shall consent thereto pursuant to a Consent and Agreement in the form attached thereto (hereinafter called the Sublease Assignment Consent).

To assure payment of certain of the obligations of Great American under the Lease, Great American, as principal, has agreed to deliver to the Owner-Trustee, as obligee, a Surety Bond (hereinafter called the Bond) issued by Great American Insurance Company, as Surety (hereinafter

called the Surety), a form of Assumption and Assignment Agreement (hereinafter called the Assumption Agreement) to be entered into between the Surety (or its substitute permitted under the Bond) and the Owner-Trustee, if the Surety so elects, being attached as an exhibit thereto.

First Security Bank of Utah, N.A. (hereinafter called the Assignee or the Vendor) is acting as agent for an investor or investors (hereinafter called the Investors) pursuant to the Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Owner-Trustee, the Lessee, the Owner, the Railroad and the Investors.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Assignment; Definitions. The parties hereto contemplate that the Owner-Trustee will furnish that portion of the Purchase Price (as defined in Article 4 hereof) for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof (hereinafter called the Assignment) between the Builder and the Assignee, as agent.

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

In case of such assignment, the Owner-Trustee will assign to the Vendor, as security for the payment and perfor-

mance of all the Owner-Trustee's obligations hereunder, all right, title and interest of the Owner-Trustee in and to the Lease, the Sublease, the Bond and, if executed and delivered, the Assumption Agreement, pursuant to an Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement substantially in the form of Annex D hereto (hereinafter called the Lease Assignment) and each of the Lessee, the Railroad and the Surety shall consent thereto pursuant to a Consent and Agreement in substantially the form attached to Annex D hereto (hereinafter collectively called the Consents).

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

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of the Equipment to the Owner-Trustee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Owner-Trustee), freight, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until the filings and recordings referred to in Article 18 hereof have been made; and provided, further, that the Builder shall have no obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clause (e) of Article 15 hereof or the occurrence of any event of default (as described in Article 15 hereof), or any event which with notice or lapse of time or both would con-

stitute such an event of default. The Builder agrees not to deliver any unit of Equipment hereunder (a) following receipt of written notice from the Owner-Trustee or the Assignee of the commencement of any such proceedings or the occurrence of any such event of default or event, as aforesaid, and (b) until it receives notice from the Assignee and the Owner-Trustee, respectively, that the conditions contained in Paragraphs 7 and 8, respectively, of the Participation Agreement have been met.

Notwithstanding the next succeeding paragraph, any Equipment not delivered as a result of the first paragraph of this Article 3, and any Equipment not delivered and accepted hereunder on or prior to December 15, 1979, shall be excluded from this Agreement; and the Owner-Trustee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom.

The Builder's obligation as to the time of delivery set forth in Annex B is subject, however, to delays resulting from causes beyond such Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Owner-Trustee (who may be employees of the Railroad) and the Builder shall grant to such authorized inspectors reasonable access to its plant or plants. The Builder will inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Owner-Trustee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Owner-Trustee (who may be an employee of the

Railroad) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Owner-Trustee and are marked in accordance with Article 9 hereof; provided, however, that the Builder shall not thereby be relieved of its warranties contained or referred to in Article 13 hereof.

Upon delivery of a Certificate of Acceptance with respect to each such unit of Equipment, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranties contained or referred to in Article 13 hereof.

Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the delivery to and acceptance by or on behalf of the Owner-Trustee of any unit of Equipment excluded from this Agreement pursuant to the second paragraph of Article 3 hereof or the first paragraph of Article 4 hereof shall be ineffective, ab initio, to create in or transfer to the Owner-Trustee any legal or beneficial right or interest in such unit or (except as provided in the first paragraph of Article 4 hereof) to impose on the Owner-Trustee any liability, obligation or responsibility with respect thereto.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder, the Owner-Trustee, the Railroad and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in such Builder's invoice or invoices delivered to the Owner-Trustee (which shall include any applicable freight charges) and, if the Purchase Price is other than the base price or prices set forth in Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Railroad, the Lessee and the Owner-Trustee (such invoice or invoices being hereinafter called the Invoices). If on any Closing Date (as hereinafter defined in this Article) the aggregate Purchase Price of Equipment for which

settlement is then being made would exceed the Maximum Purchase Price specified in Item 4 of Annex A hereto, the Builder (and any assignee of the Builder) and the Owner-Trustee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Owner-Trustee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 4 of Annex A hereto and the Owner-Trustee shall take such other steps, including the execution of instruments of transfer, as may be reasonably requested by the Builder for the purpose of acknowledging and perfecting the interest of the Builder in any unit of Equipment so excluded from this Agreement, and the Owner-Trustee shall have no further obligation or liability in respect of units so excluded.

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Owner-Trustee as is provided in Item 2 of Annex A hereto (each such group being hereinafter sometimes called a Group). The term "Closing Date" with respect to any Group shall mean the date (not later than December 31, 1979) occurring not more than 10 business days following presentation by the Builder to the Owner-Trustee of the Invoices, of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Railroad, as shall be fixed by the Railroad by written notice delivered to the Owner-Trustee, Great American, the Builder and the Assignee at least six business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Salt Lake City, Utah, are authorized or obligated to remain closed.

The Owner-Trustee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date an amount equal to 35.5% of the aggregate Purchase Price of such Group; and

(b) in 68 quarterly installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (herein called the Conditional Sale Indebtedness) shall be payable on each January 15, April 15, July 15 and October 15, commencing July 15, 1980, to and including April 15, 1997 (or if any such date is not a business day, on the next succeeding business day; provided, however, that no interest shall be payable on the amount to be paid on such date for the period from and after such nominal date for payment thereof to such next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.75% per annum. Such interest shall be payable, to the extent accrued, on April 15, 1980, and on each Payment Date thereafter. The installments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto, and the aggregate of such installments of principal will completely amortize the remaining Conditional Sale Indebtedness by April 15, 1997. The Owner-Trustee will furnish to the Vendor and the Lessee promptly after the Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months, except that interest payable on April 15, 1980, shall be computed on an actual elapsed day and 360-day year basis.

The Owner-Trustee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 10.75% per annum.

All payments provided for in this Agreement shall be made in immediately available funds in such coin or

currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Articles 7 and 15 hereof, the Owner-Trustee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

The obligation of the Owner-Trustee to make payment to the Builder is subject to the furnishing by the Builder to the Owner-Trustee of the documents required to be furnished by the Builder pursuant to Section 4 of the Assignment in respect of such Group.

Notwithstanding any other provisions of this Agreement, including, without limitation, Articles 15 and 16 hereof, it is understood and agreed by the Vendor that the liability of the Owner-Trustee for all payments to be made by it under and pursuant to this Agreement and for all performance obligations (other than the payments called for by subparagraph (a) of the third paragraph of this Article and as provided in the proviso to the last paragraph of Article 12 hereof), shall not exceed an amount equal to, and shall be payable only out of, the income and proceeds from the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (i) if an event of default shall have occurred under Article 15 hereof and while it shall be continuing so much of the following amounts as are indefeasibly received by the Owner-Trustee (or any assignee of the Owner-Trustee) at any time after any event of default and during the continuance thereof: (a) all amounts of rental and all amounts in respect of Casualty Occurrences payable pursuant to the Lease, the Sublease or any other sublease permitted under the Lease, (b) any and all other payments or proceeds so received pursuant to the Lease, the Sublease or any other sublease permitted under the Lease, or for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (c) any and all payments or proceeds received pursuant to the Bond or the Assumption Agreement and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a), (b) and (c) or otherwise payable to the Owner-Trustee pursuant to the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, as are indefeasibly received by the Owner-Trustee or any assignee of the Owner-Trustee and as shall equal the portion of the Conditional Sale Indebtedness

and/or interest thereon due and payable by the Owner-Trustee on the date such amounts so received were required to be paid pursuant to the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, or as shall equal any other payments (including payments in respect of Casualty Occurrences as defined in Article 7 hereof) then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to by items (i) and (ii) of Paragraph 1 of the Lease Assignment or amounts referred to in the foregoing clauses (a), (b) and (c) which were received by the Owner-Trustee or any assignee of the Owner-Trustee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness and/or interest thereon due and payable by the Owner-Trustee on the date on which amounts with respect thereto received by the Owner-Trustee or any assignee of the Owner-Trustee were required to be paid pursuant to the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, or which exceeded any other payments including payments in respect of Casualty Occurrences due and payable under this Agreement at the time such amounts were payable under the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement. The Vendor agrees that if it obtains a judgment against the Owner-Trustee for an amount in excess of the amounts payable by the Owner-Trustee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount and it will not bring suit against the Owner-Trustee for any sums in addition to the amounts payable by the Owner-Trustee pursuant to said limitations (or obtain a judgment, order or decree against the Owner-Trustee for any relief other than the payment of money) except as may be required by applicable rules of procedure to enforce against the Equipment, the Lessee, the Railroad, any other sublessee (as defined in the Lease), the Surety (including its substitute permitted under the Bond) and the Lease, the Sublease, any other sublease permitted under the Lease, the Bond or the Assumption Agreement, rather than against the Owner-Trustee personally, by appropriate proceedings against the Owner-Trustee at law or in equity or otherwise, the obligation to make the payments to be made pursuant to this Agreement or any other payments or performance obligations due to the Vendor under this Agreement. Nothing contained herein limiting the liability of the Owner-Trustee shall derogate from the right of the

Vendor to proceed against the Equipment or the Lessee, the Railroad, any other sublessee permitted under the Lease, the Surety (including its substitute permitted under the Bond), the Lease, the Sublease, any other sublease permitted under the Lease, the Bond, the Assumption Agreement or the Consents for the full unpaid Purchase Price of the Equipment and interest thereon and any and all other payments and obligations under this Agreement.

ARTICLE 5. Security Interest in the Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Owner-Trustee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Owner-Trustee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Owner-Trustee, the Lessee, the Railroad, any other sublessee or the Surety (including its substitute permitted under the Bond) as provided in this Agreement, the Lease, the Sublease, any other sublease permitted under the Lease, the Bond and the Assumption Agreement; it being understood that, subject thereto, ownership of the Equipment (upon delivery and acceptance thereof) shall pass to and remain in the Owner-Trustee. Accordingly, after such time as all payments due or to become due hereunder shall have been completed and fully made to or for the account of the Vendor, and the Owner-Trustee shall have performed all its other obligations hereunder (without regard to the provisions of the last paragraph of Article 4 hereof or Article 21 hereof), (a) such payments shall be deemed to represent the discharge in full of the Vendor's security interest in the Equipment at such time, (b) any moneys remaining in the hands of the Vendor after providing for all outstanding amounts due and payable hereunder and as provided in the first paragraph of Paragraph 10 of the Participation Agreement shall be paid to the Owner-Trustee, and (c) the Vendor shall execute for recording in public offices such instrument or instruments in writing as reasonably shall be requested by the Owner-Trustee or the Lessee in order to discharge of record the security interest of the Vendor in, and to make clear upon public records the Owner-Trustee's full title to, such units of the Equipment under the laws of any jurisdiction; provided, however, that until that time a security interest in the Equipment shall be and remain in the Vendor, notwithstanding the possession and use thereof by the Owner-Trustee, the Lessee, the Railroad, any other sublessee permitted under the Lease or

the Surety (including its substitute permitted under the Bond) pursuant to the terms of this Agreement, the Lease, the Sublease, any other sublease permitted under the Lease, the Bond and the Assumption Agreement.

The Owner-Trustee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instruments or to file such certificates within a reasonable time after written demand by the Owner-Trustee.

The term "Equipment" as used in this Agreement shall not include any special devices or assemblies at any time attached or affixed to any unit of Equipment, the cost or purchase price of which is not included in the Purchase Price of the Equipment and the title to which is in a person other than the Owner-Trustee.

ARTICLE 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Owner-Trustee agrees to pay, or cause to be paid and on written demand to indemnify and hold the Vendor, the Builder, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under this Agreement and the Participation Agreement harmless from, all taxes (income, gross receipts, franchise, sales, use, property [real or personal, tangible or intangible], stamp and minimum [imposed under Section 56 of the Internal Revenue Code of 1954, as amended] taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed on the Owner-Trustee, the Owner, the Vendor, the Investors, the Builder, the Railroad or the Lessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under this Agreement and the Participation Agreement, or otherwise, by any Federal, state or local government or governmental subdivision in the United States of America or by any foreign country or subdivision thereof, upon or with respect to: any unit of the Equipment or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this

Agreement, the Lease, the Sublease, the Consents, the Sublease Assignment, the Sublease Assignment Consent, the Lease Assignment, the Participation Agreement (including the certificates of interest and the issuance thereof), the Trust Agreement, the Bond, the Assumption Agreement or the Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to the Equipment or the property held by the Owner-Trustee under the Trust Agreement or by the Vendor under this Agreement and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States of America or of any state or local government or governmental subdivision or authority thereof and (if and to the extent that any person indemnified hereunder is entitled to a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits, or taxes computed as a percentage of income tax liabilities, of the Vendor, the Builder or the Investors, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Agreement; provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Agreement shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed on or measured by any agency or trustee's fees received by the Vendor; and (iii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Vendor or any transfer or disposition of this Agreement resulting from bankruptcy or other proceedings for the relief of creditors whether voluntary or involuntary in which the Vendor is debtor; provided, however, that the Owner-Trustee shall not be required to pay any Taxes during the period the Owner-Trustee or any indemnified party may be contesting the same in the manner provided in the third paragraph of this Article 6.

The amount which the Owner-Trustee shall be required to pay with respect to any Taxes indemnified against pursuant to this Article 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

If claim is made against any indemnified party for any Taxes indemnified against under this Article 6, such party shall promptly notify the Owner-Trustee and the Lessee. If reasonably requested by the Owner-Trustee in writing, such indemnified party shall, upon receipt of any indemnity satisfactory to it for all costs, expenses, losses, reasonable legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Owner-Trustee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Owner-Trustee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party, which consent cannot be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Owner-Trustee in connection with any such contest or an amount representing interest thereon, such indemnified party shall pay the Owner-Trustee the amount of such refund or interest net of expenses; but only if no event of default set forth in Article 15 hereof and no event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing.

In case any report or return is required to be made with respect to any obligation of the Owner-Trustee under this Article 6 or arising out of this Article 6, the Owner-Trustee shall either make such report or return in such manner as will show the interest of the Vendor in the Equipment or shall promptly notify the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Vendor. All costs and expenses (including reasonable legal and accountants' fees) of preparing any such return or report shall be borne by the Owner-Trustee.

All the obligations of the Owner-Trustee under this Article 6 shall survive and continue, notwithstanding

payment in full of all amounts due under this Agreement, but only with respect to periods included in the term of this Agreement. Payments due from the Owner-Trustee under this Article 6 shall be made directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority.

The obligations of the Owner-Trustee under this Article 6 are subject to the limitations contained in the last paragraph of Article 4 hereof and in Article 21 hereof.

The Owner-Trustee shall furnish or cause to be furnished promptly, upon request, such information and data as are normally available to the Owner-Trustee and which the Vendor reasonably may require to permit compliance with the requirements of any taxing authorities.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Owner-Trustee shall, at its own cost and expense, maintain and keep each unit of the Equipment (including any parts installed on or replacements made to any unit and considered an Addition thereto as provided in § 9 of the Lease) in good operating order, repair and condition, ordinary wear and tear excepted.

In the event that any unit of the Equipment shall be or become worn out, lost, stolen, destroyed, irreparably damaged or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession thereof by the Lessee, the Railroad or any other sublessee permitted under the Lease for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Agreement (any such occurrences being herein called Casualty Occurrences) during the term of this Agreement, the Owner-Trustee shall, promptly after it shall have received notice from the Lessee thereof or otherwise been notified that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the Payment Date next succeeding such notice or notification (or, in the event such Payment Date will occur within 15 days after delivery of such notice or notification to the Owner-Trustee, on the following Payment Date), the Owner-Trustee shall, subject to the limitations contained in the last paragraph of Article 4 hereof, pay to the Vendor an amount equal to the Fair Value, as hereinafter defined, of such unit suffering a Casualty

Occurrence as of the date of such payment. On the date of any such payment, the Owner-Trustee shall file, or cause to be filed, with the Vendor a certificate setting forth the Fair Value of such unit and the method of determination thereof. In the event of the requisition for use by the United States Government of any unit of Equipment, unless such requisition shall at the time of such requisition be scheduled to extend beyond the then remaining term of this Agreement, all the Owner-Trustee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

Upon payment by the Owner-Trustee to the Vendor of the Fair Value of any unit of the Equipment having suffered a Casualty Occurrence, the security interest of the Vendor in such unit shall terminate without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Owner-Trustee, will execute and deliver, to the Owner-Trustee, at the expense of the Owner-Trustee, an appropriate instrument confirming such termination to the Owner-Trustee, in recordable form, in order that the Owner-Trustee may make clear upon the public records the full title of the Owner-Trustee to such unit.

Any insurance proceeds or condemnation payments received and retained by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Owner-Trustee to the Vendor in respect of Casualty Occurrences pursuant to this Article. If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence either after the Owner-Trustee shall have made payments pursuant to this Article without deduction for such insurance proceeds or condemnation payments, or in excess of the Fair Value (after taking into account payments by the Owner-Trustee under this Article) of such units, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Owner-Trustee. All insurance proceeds or condemnation payments or such excess received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Owner-Trustee upon proof satisfactory to the Vendor that the damage to such unit in respect of which such proceeds were paid has been fully repaired.

Any money paid to the Vendor pursuant to this Article shall be applied (after the payment of the interest and

principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each installment, the Conditional Sale Indebtedness and the Owner-Trustee will promptly furnish to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as they may request. In the event of the requisition for use by the United States Government of any unit of the Equipment not constituting a Casualty Occurrence, all the Owner-Trustee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

The "Fair Value" of any unit of Equipment on any date shall be deemed to be an amount computed by multiplying the unpaid principal amount of the Conditional Sale Indebtedness outstanding on such date (after giving effect to any payment in respect thereof due on such date pursuant to Article 4 hereof) by a fraction of which the numerator shall be the Purchase Price of such unit and the denominator shall be the Purchase Price of all units (including such unit) subject to this Agreement on such date.

The Owner-Trustee will at all times prior to the payment of the Conditional Sale Indebtedness, together with interest thereon and all other payments required hereby, maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Equipment at the time subject hereto, 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 Railroad or any other user of the Equipment on similar equipment owned by it. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee, the Lessee, the Railroad or any other sublessee permitted under the Lease as their respective interests may appear.

The Owner-Trustee will at all times prior to the payment of the Conditional Sale Indebtedness, together with interest thereon and all other payments required hereby, at its own expense, carry and maintain or cause to be carried and maintained public liability insurance, naming the Vendor as additional named insured as its interests may appear, 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 Railroad or any other user of the Equipment in respect of similar equipment owned by it.

ARTICLE 8. Reports and Inspections. The Owner-Trustee covenants and agrees to furnish to the Vendor, on or before April 1 in each year, commencing with the calendar year 1980, an accurate statement as of the preceding December 31 (i) showing the amount, description and numbers of all the units of Equipment then subject hereto and the amount, description and numbers of all such units of Equipment that may have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such certificate) or, to the knowledge of the Owner-Trustee, are then undergoing repairs (other than running repairs) or have been withdrawn from use pending repair (other than normal running repairs), and such other information regarding the condition and state of repair of such units of Equipment as the Vendor may reasonably request and (ii) stating that in the case of all such units of Equipment repainted or repaired during the period covered thereby the marks required by Article 9 hereof have been preserved or replaced. The Vendor, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect the records of the Owner-Trustee with respect to the Equipment, and the Owner-Trustee covenants in that event to furnish to the Vendor all reasonable facilities for the making of such inspection.

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

ARTICLE 9. Marking of Equipment. The Owner-Trustee agrees that it will cause each unit of the Equipment to be kept plainly, distinctly, permanently and conspicuously marked on each side of such unit, in letters not less than one inch in height, the following words:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION"

or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the security interest of the Vendor in such unit and the rights of the Vendor under this Agreement.

The Owner-Trustee will not place or permit any unit of the Equipment to be placed in operation or exercise any control or dominion over the same until such words have been so marked on both sides thereof and will replace or cause to be replaced promptly any such words which may be removed, defaced, obliterated or destroyed. The Owner-Trustee shall not change, or permit to be changed, the identifying number of any unit of the Equipment unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and duly filed, recorded and deposited by the Owner-Trustee in all public offices where this Agreement shall have been filed, recorded and deposited and (ii) the Owner-Trustee shall have furnished the Vendor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's interest in such units of Equipment and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor in such Units.

Except as above provided, the Owner-Trustee will not allow the name of any person, association or corporation to be placed on the units of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Owner-Trustee may permit the Equipment to be lettered with the names, trademarks, initials or other insignia customarily used, so long as the Sublease shall remain in effect, by the Railroad, and, thereafter, so long as a sublease with a sublessee of the Equipment permitted by § 12 of the Lease shall remain in effect, by such other sublessee, or their respective affiliates, on railroad equipment used by them of the same or a similar type for convenience of identification of their respective rights to use the Equipment under the Lease, the Sublease or such other sublease.

ARTICLE 10. Compliance with Laws and Rules. During the term of this Agreement, the Owner-Trustee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment 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 Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement, addition or modification of or to any part of any unit of the Equipment, the Owner-Trustee will, or will cause the Lessee to, conform therewith at no expense to the Vendor; provided, however, that the Owner-Trustee or the Lessee may, in good faith, contest or cause to be contested the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Vendor, materially adversely affect the property or rights of the Vendor under this Agreement.

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

ARTICLE 11. Possession of Equipment. So long as no event of default has occurred and is continuing hereunder, the Owner-Trustee shall be entitled to the possession and use of the Equipment and also to enter into the Lease, and to permit the use of the Equipment as provided in the Lease. The Owner-Trustee hereby agrees that the Lease and the Sublease (except with respect to rights specifically excluded from any assignment of rights thereunder) and any other sublease of any of the Equipment and the rights of the Owner-Trustee to receive rentals and other payments due and to become due thereunder shall be subject and subordinate to this Agreement and to the rights of the Vendor hereunder and under the Consents.

The Owner-Trustee will not amend or consent to any change in the Trust Agreement which might adversely affect the rights of the Vendor without the prior written consent of the Vendor.

ARTICLE 12. Discharge of Liens. The Owner-Trustee will pay or discharge any and all sums claimed by any party from, through or under the Owner-Trustee, the Owner or the successors or assigns of any of them which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the "income and proceeds from the Equipment" (as defined in Article 4 hereof), and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings

in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, materially adversely affect the interest of the Vendor in the Equipment, its interest in said income and proceeds from the Equipment, or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

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

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof; provided, however, that the Owner-Trustee will pay or discharge any and all claims, liens, charges or security interests claimed by any party from, through or under the Owner-Trustee or the Owner or the successors or assigns of any of them, not arising out of the transactions contemplated hereby (but including any tax liens arising out of the receipt of rentals and other payments under the Lease, the Sublease or the Participation Agreement), but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not materially adversely affect the security interest of the Vendor in the Equipment, its interest in said income and proceeds from the Equipment, or otherwise under this Agreement.

ARTICLE 13. Indemnity; Builder's Representations and Warranties. The Owner-Trustee shall pay, and shall protect, indemnify and hold the Vendor, the Investors and any respective assignee thereof, and their respective successors, assigns, principals, 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 reasonable attorneys' fees and expenses of any

Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Agreement or the Equipment, 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 of Equipment or portion thereof; (ii) any latent and other defects whether or not discoverable by the Owner-Trustee or any Indemnified Person; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or by statute imposed; (v) any injury to or the death of any person or any damage to or loss of property on or near the Equipment 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 Equipment or of any other equipment in connection with the Equipment (whether owned or under the control of the Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder), or alleged violation, of any provision of this Agreement or any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Equipment or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; or (vii) any claim arising out of the Vendor's holding of a security interest under this Agreement or the Lease Assignment; except, however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant hereunder by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A hereto. The Owner-Trustee shall be obligated under this Article, 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 Owner-Trustee under this Article 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 Owner-Trustee may and, upon such Indemnified Person's reasonable request will, at the Owner-Trustee's expense, resist and defend such action,

suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Owner-Trustee and approved by such Indemnified Person and, in the event of any failure by the Owner-Trustee to do so, the Owner-Trustee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Owner-Trustee is required to make any payment under this Article, the Owner-Trustee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes), shall be equal to the amount of such payment. The Vendor and the Owner-Trustee each agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article by the Owner-Trustee, or the making of provision satisfactory to the Indemnified Person for the full payment thereof, and provided that no event of default set forth in Article 15 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, the Owner-Trustee 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 as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to the Lease or the Railroad pursuant to the Sublease or by any sublessee under a sublease permitted by § 12 of the Lease shall be paid over to the Owner-Trustee to the extent necessary to reimburse the Owner-Trustee for indemnification payments previously made in respect of such matter.

The indemnities contained in this Article shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article shall be deemed to create any rights of subrogation in any insurer or third party against

the Owner-Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

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

The obligations of the Owner-Trustee under this Article 13 are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof.

The Builder represents and warrants to the Owner-Trustee and the Assignee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Builder 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 created by this Agreement, the Assignment, the Lease and the Sublease and that at such time each such unit will be new railroad equipment the original use of which will commence with the Owner-Trustee.

The Builder represents that it is not entering into this Agreement, or entering into any assignment of this Agreement, 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 is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

The agreement of the parties relating to the Builder's warranty of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Item 3 of Annex A hereto.

ARTICLE 14. Assignments. Without the prior consent of the Vendor, the Owner-Trustee will not (a) transfer the right to possession of any unit of the Equipment, except as provided in Article 11 hereof, or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement except as provided in the Trust Agreement.

All or any of the rights, benefits and advantages

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

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

The Owner-Trustee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Owner-Trustee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense,

setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Owner-Trustee or the Lessee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Owner-Trustee or the Lessee, as the case may be, against and only against the Builder.

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

(a) the Owner-Trustee shall default in the payment of the principal of or interest on the Conditional Sale Indebtedness or payment in respect of a Casualty Occurrence under Article 7 hereof, and such default shall continue until five business days after notice has been received by the Surety, the Owner and the Owner-Trustee of the election to proceed under Paragraph 1(b) of the Bond, without regard to any limitation of liability contained in Article 4 or 21 hereof, or

(b) the Owner-Trustee shall, without regard to any limitation of liability contained in Article 4 or 21 hereof, for more than 30 days (or, with respect to the terms and covenants of Articles 6, 7 (other than the second and third sentences of the second paragraph thereof), 8, 9, 10, 12 (other than the proviso in the last paragraph thereof) and 13, the shorter of (i) 55 days or (ii) 25 days after an Event of Default has occurred under the Lease) after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants of this Agreement or the Lease Assignment on its part to be kept and performed (except as provided in clause (d) of this Article), or to make provision satisfactory to the Vendor for such compliance, or

(c) the Lessee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any term, covenant, agreement or provision of the Participation Agreement made expressly for the benefit of the Assignee (or the Investors), on its part to be kept or performed, and the Owner-Trustee shall not make provision satisfactory to the Assignee for such compliance, or

(d) the Owner-Trustee, except as herein authorized or contemplated, shall make or suffer any unauthorized transfer or sublease (including, for the purpose of this clause, contracts for the use thereof) of any unit of the Equipment and shall fail or refuse either to cause such transfer or sublease to be canceled by agreement of all parties having any interest therein or recover possession of such Equipment, as the case may be, within 30 days after the Vendor shall have demanded in writing such cancelation or recovery of possession, or within said 30 days to deposit with the Vendor a sum in cash equal to the Fair Value (as defined in Article 7 hereof) of such unit of Equipment (any sum so deposited to be returned to the Owner-Trustee upon the cancelation of such transfer or sublease or the recovery of possession by the Owner-Trustee of such Equipment), or

(e) either the Surety or the Owner shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or any of its properties or assets, (ii) be unable, or admit in writing its inability, to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated a bankrupt or insolvent or (v) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or if corporate action shall be taken by it for the purpose of effecting any of the foregoing; or any proceeding shall be commenced against either the Surety or the Owner for any relief 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 hereunder or under the Bond, the Lease, the Lease Assignment or the Participation Agreement of the Surety or the Owner, as the case may be) and such proceedings shall continue unstayed and in effect for any period of 60 days, or

(f) an Event of Default (as defined therein) shall have occurred under the Lease and within five business

days after notice has been received by the Surety of the election to proceed under Paragraph 1(b) of the Bond, neither (i) the event causing such Event of Default shall have been cured nor (ii) the Assumption Agreement shall have been executed and delivered by the Owner-Trustee and the Surety (or its permitted substitute under the Bond); provided, however, that a default in the payment of not in excess of four consecutive basic quarterly rental payments under the Lease will be deemed for purposes of this clause to be an event of default hereunder cured if an event of default shall not then be in existence pursuant to the provisions of clause (a) of this Article 15, or

(g) the Bond shall for any reason no longer be effective and enforceable, or

(h) if the Assumption Agreement shall have been executed and delivered by the Owner-Trustee and the Surety (or its permitted substitute under the Bond), an Event of Default shall have occurred under the Lease, as assumed, or under any lease entered into pursuant to the Assumption Agreement,

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to each Owner, the Owner-Trustee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) cause the Lease and/or the Sublease or any other sublease immediately upon such notice to terminate (and the Owner-Trustee acknowledges the right of the Vendor to terminate the Lease and/or the Sublease or any other sublease), but without affecting the indemnities which by the provisions of the Lease and the Sublease survive its or their termination and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale

Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Owner-Trustee, subject to the provisions of Articles 4 and 21 hereof, wherever situated. The Owner-Trustee shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time would constitute, an event of default under this Agreement.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease, the Sublease or any other sublease by notice to the Owner-Trustee and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease, Sublease and/or other sublease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Owner-Trustee that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

If an event of default shall have occurred and be continuing hereunder for at least 30 days and a Declaration of Default has not been made by the Vendor, the Owner-Trustee may prepay the entire unpaid Conditional Sale Indebtedness together with the interest thereon then accrued and unpaid.

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Owner-Trustee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Owner-Trustee or any other person and for such purpose may enter upon the premises of the Owner-Trustee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or

means of the Owner-Trustee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Owner-Trustee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, causing prompt telegraphic and written notice to be given to all railroads which may have possession of any unit or units of the Equipment to return the unit or units) cause the Equipment to be placed upon such storage tracks as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks without charge for insurance, rent or storage until the Equipment has been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the Equipment to be transported to such interchange point or points as directed by the Vendor upon any sale, lease or other disposal of all or any of the Equipment.

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

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, upon the notice and procedures as are hereinafter set forth,

retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Owner-Trustee, the Owner and the Lessee by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor shall elect to retain the Equipment and the Owner-Trustee and the Owner do not object thereto in writing as described in the second proviso below, all the Owner-Trustee's rights in the Equipment shall thereupon terminate and all payments made by the Owner-Trustee or for its account may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Owner-Trustee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee; provided, further, that if the Owner-Trustee, the Owner, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon 30 days notice to the Owner-Trustee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell or contract to sell the Equipment, or one or more of the units thereof, free from any and all claims of the Owner-Trustee, the Lessee, the Railroad, any other sublessee under the Lease or any other party claiming from, through or under the Owner-Trustee, the Lessee, the Railroad or any other sublessee under the Lease, at law or in equity, at public or private sale and

with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Owner-Trustee should tender full payment of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be conducted in a commercially reasonable manner. The Vendor, the Owner-Trustee and the Owner may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Owner-Trustee and the Lessee shall be given written notice of such sale or the making of a contract for such sale not less than 30 days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Owner-Trustee to purchase or provide a purchaser, within 15 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Owner-Trustee or the Lessee (except to the extent of surplus money received as herein-

after provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor except that the Vendor shall not be deemed to have the power or remedy to retain the Equipment in satisfaction of the Conditional Sale Indebtedness except as specifically provided in this Article 16. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Owner-Trustee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Owner-Trustee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Owner-Trustee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

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

such surplus shall be paid to the Owner-Trustee.

The Owner-Trustee will pay all reasonable compensation and expenses, including reasonable attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable compensation and expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations of the last paragraph of Article 4 and Article 21 hereof.

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

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Owner-Trustee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 18. Recording. Subject to the provisions of Article 21 hereof, the Owner-Trustee will, (a) promptly after the execution and delivery of this Agreement, any assignments hereof, the Lease, the Sublease, the Sublease Assignment, the Lease Assignment and each supplement hereto and thereto, respectively, cause this Agreement, any assignments hereof, the Lease, the Sublease, the Sublease Assignment, the Lease Assignment and each such supplement to be

duly filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303, (b) promptly cause all necessary filings and recordings of appropriate financing statements or continuation statements to be made, and from time to time when required refilings and rerecordings, in accordance with the applicable provisions of the Uniform Commercial Code of the State of Utah (and, if the Owner-Trustee changes its chief place of business to a different state, in any such other state) and in any other State of the United States of America or the District of Columbia where filing is reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its security interest in the Bond, the Lease, the Sublease and the Equipment and its rights under this Agreement and the Lease Assignment or for the purpose of carrying out the intention of this Agreement and the Lease Assignment, (c) from time to time do and perform any other act and execute, acknowledge, deliver and file, register and record any and all further instruments required by law or reasonably requested by the Vendor for the purposes of proper protection of the security interest of the Vendor, (d) furnish an opinion or opinions of counsel of the Lessee in connection with such filing, registration, and recordation, and (e) promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

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

Except for the Participation Agreement, the Assignment, the Bond and the Trust Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Owner-Trustee with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Owner-Trustee.

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

(a) to the Owner-Trustee, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department,

(b) to First Security Bank of Utah, N.A., as the Assignee or as the Vendor, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department,

(c) to the Builder, as the Builder or as the Vendor, at its address specified in Item 1 of Annex A hereto,

(d) to the Owner, at P. O. Box 8300, Stamford, Connecticut 06904, Attention of Manager-Operations, Leasing and Industrial Loans, with a separate copy to Attention of Manager-Rail Component;

(e) to the Railroad, at 332 South Michigan Avenue, Chicago, Illinois 60604, Attention of Chief Financial Officer,

(f) to Great American, care of Thayer, Ringoen & Macdonald, at 50 California Street, San Francisco, California 94111, Attention of President,

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

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

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

The obligations of the Owner-Trustee under the second and eighth paragraphs of Article 16 and under Articles 3, 6, 7, 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Owner-Trustee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed or cured as permitted hereby they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. So long as any Conditional Sale Indebtedness remains outstanding, no waiver or amendment by the Owner-Trustee of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

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 Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by First Security State Bank, or for the purpose or with the intention of binding the 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 Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank or the Owner on account of any representation, undertaking or agreement hereunder of said bank acting in its capacity as Owner-Trustee, or the Owner either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 hereof and sub-paragraph (a) of the third paragraph of Article 4 hereof; all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

ARTICLE 22. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Utah; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, 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.

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

PULLMAN INCORPORATED (Pullman Standard Division),

by _____

Attest:

_____

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by _____
Authorized Officer

Attest:

_____

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

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and 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.

Notary Public

[Notarial Seal]

My Commission Expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this 3 day of Aug 1979, before me personally appeared JOHN R. SAGER, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and 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.

Verna L McCoa
Notary Public

[Notarial Seal]

My Commission Expires

SCHEDULE I

Allocation Schedule of Conditional Sale Indebtedness

DATE	DEBT SERVICE	DEBT INTEREST	DEBT PRINCIPAL	DEBT BALANCE
4/1980	*	*	0.00	8,125,194.00
7/1980	255,118.49	198,051.60	57,066.89	8,068,127.11
10/1980	255,118.49	196,660.60	58,457.89	8,009,669.22
1/1981	255,118.49	195,235.69	59,882.80	7,949,786.42
4/1981	255,118.49	193,776.04	61,342.45	7,888,443.97
7/1981	255,118.49	192,280.82	62,837.67	7,825,606.30
10/1981	255,118.49	190,749.15	64,369.34	7,761,236.96
1/1982	255,118.49	189,180.15	65,938.34	7,695,298.62
4/1982	255,118.49	187,572.90	67,545.59	7,627,753.03
7/1982	255,118.49	185,926.48	69,192.01	7,558,561.02
10/1982	255,118.49	184,239.92	70,878.57	7,487,682.45
1/1983	255,118.49	182,512.26	72,606.23	7,415,076.22
4/1983	255,118.49	180,742.48	74,376.01	7,340,700.21
7/1983	255,118.49	178,929.57	76,188.92	7,264,511.29
10/1983	255,118.49	177,072.46	78,046.03	7,186,465.26
1/1984	255,118.49	175,170.09	79,948.40	7,106,516.86
4/1984	255,118.49	173,221.35	81,897.14	7,024,619.72
7/1984	255,118.49	171,225.11	83,893.38	6,940,726.34
10/1984	255,118.49	169,180.20	85,938.29	6,854,788.05
1/1985	255,118.49	167,085.46	88,033.03	6,766,755.02
4/1985	255,118.49	164,939.65	90,178.84	6,676,576.18
7/1985	255,118.49	162,741.54	92,376.95	6,584,199.23
10/1985	255,118.49	160,489.86	94,628.63	6,489,570.60
1/1986	255,118.49	158,183.28	96,935.21	6,392,635.39
4/1986	255,118.49	155,820.49	99,298.00	6,293,337.39
7/1986	255,118.49	153,400.10	101,718.39	6,191,619.00
10/1986	255,118.49	150,920.71	104,197.78	6,087,421.22
1/1987	255,118.49	148,380.89	106,737.60	5,980,683.62
4/1987	255,118.49	145,779.16	109,339.33	5,871,344.29
7/1987	255,118.49	143,114.02	112,004.47	5,759,339.82
10/1987	255,118.49	140,383.91	114,734.58	5,644,605.24
1/1988	255,118.49	137,587.25	117,531.24	5,527,074.00
4/1988	255,118.49	134,722.43	120,396.06	5,406,677.94
7/1988	255,118.49	131,787.77	123,330.72	5,283,347.22

* Interest payment to be calculated in accordance with Article 4 of the Conditional Sale Agreement.

DATE	DEBT SERVICE	DEBT INTEREST	DEBT PRINCIPAL	DEBT BALANCE
10/1988	255,118.49	128,781.59	126,336.90	5,157,010.32
1/1989	255,118.49	125,702.13	129,416.36	5,027,593.96
4/1989	255,118.49	122,547.60	132,570.89	4,895,023.07
7/1989	255,118.49	119,316.19	135,802.30	4,759,220.77
10/1989	255,118.49	116,006.01	139,112.48	4,620,108.29
1/1990	255,118.49	112,615.14	142,503.35	4,477,604.94
4/1990	208,284.82	109,141.62	99,143.20	4,378,461.74
7/1990	210,744.70	106,725.00	104,019.70	4,274,442.04
10/1990	210,744.68	104,189.52	106,555.16	4,167,886.88
1/1991	255,118.49	101,592.24	153,526.25	4,014,360.63
4/1991	115,213.79	97,850.04	17,363.75	3,996,996.88
7/1991	185,166.14	97,426.80	87,739.34	3,909,257.54
10/1991	185,166.13	95,288.15	89,877.98	3,819,379.56
1/1992	252,043.39	93,097.38	158,946.01	3,660,433.55
4/1992	89,223.07	89,223.07	0.00	3,660,433.55
7/1992	170,633.23	89,223.07	81,410.16	3,579,023.39
10/1992	170,633.20	87,238.70	83,394.50	3,495,628.89
1/1993	255,118.49	85,205.95	169,912.54	3,325,716.35
4/1993	181,436.26	81,064.34	100,371.92	3,225,344.43
7/1993	245,856.40	78,617.77	167,238.63	3,058,105.80
10/1993	245,856.40	74,541.33	171,315.07	2,886,790.73
1/1994	245,856.40	70,365.52	175,490.88	2,711,299.85
4/1994	245,856.40	66,087.93	179,768.47	2,531,531.38
7/1994	245,856.40	61,706.08	184,150.32	2,347,381.06
10/1994	245,856.40	57,217.41	188,638.99	2,158,742.07
1/1995	245,856.40	52,619.34	193,237.06	1,965,505.01
4/1995	245,856.40	47,909.18	197,947.22	1,767,557.79
7/1995	245,856.40	43,084.22	202,772.18	1,564,785.61
10/1995	245,856.40	38,141.65	207,714.75	1,357,070.86
1/1996	245,856.40	33,078.60	212,777.80	1,144,293.06
4/1996	245,856.40	27,892.14	217,964.26	926,328.80
7/1996	245,856.40	22,579.26	223,277.14	703,051.66
10/1996	245,856.40	17,136.88	228,719.52	474,332.14
1/1997	245,856.40	11,561.85	234,294.55	240,037.59
4/1997	245,888.51	5,850.92	240,037.59	0.00

ANNEX A
to
Conditional Sale Agreement

Item 1: Pullman Incorporated (Pullman Standard Division), at 200 South Michigan Avenue, Chicago, Illinois 60604.

Item 2: The Equipment hereto shall be settled for in not more than one Group.

Item 3: (a) The Builder warrants that the units of the Equipment will be built in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (the "CSA") and warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Railroad and not manufactured by the Builder) and workmanship or design (except as to designs specified by the Railroad and not developed or purported to be developed by the Builder) under normal use and service; the Builder's obligation under this paragraph being limited to making good at its plant any part or parts of any unit of the Equipment which shall be returned to the Builder within one year after delivery of such unit, or as to which written notice of such defect has been given by the Owner-Trustee or the Railroad to the Builder within one year after delivery of such unit and which part or parts are returned within 90 days after such notice to the Builder, provided that the Builder's examination shall disclose to its reasonable satisfaction such part or parts to have been defective; provided, however, that this warranty will be subject to the following limitations: (i) warranty coverage on unit running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever first occurs; and (ii) normal use and service is deemed to require inspection, adjustment, maintenance, and compliance with the Builder's written instructions and any applicable Federal, state or local laws or regulations. THIS WARRANTY

IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE BUILDER, EXCEPT FOR ITS OBLIGATIONS UNDER ARTICLES 2, 3, 4 AND 13 OF THE CSA. The Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of its Equipment, except for the patent indemnification under Item 3(b) below and as aforesaid.

The Builder also agrees to exert its best efforts to include, as a condition of its purchase order with the vendor of a specialty purchased by the Builder for incorporation in the Equipment and not warranted hereunder, an agreement by such vendor to the effect that all warranty agreements and representations, if any, made by such vendor to the Lessee, to the Railroad or to the Builder may be enforced by the Lessee in the Lessee's own name. The Builder hereby agrees to assign to the Lessee, solely for the purpose of making and prosecuting any such claim, all of the rights which the Builder has against such vendor for the breach of warranty or other representation respecting the Equipment.

The Builder further agrees that neither the inspection as provided in Article 3 of the CSA, nor any examination or acceptance of any units of its Equipment as provided in said Article 3, shall be deemed a waiver or modification by the Lessee of any of its rights under this Item 3.

It is further understood and agreed that the word "design(s)" as used herein and in Item 3(b) below and the word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

(b) Except in case of designs, processes or combinations specified by the Railroad and not developed or purported to be developed by the Builder, and articles and materials specified by the Railroad and not manufactured by the Builder, the Builder agrees to indemnify, protect and hold harmless the Lessee, the Railroad, the Owner-Trustee,

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

the Lessee on the basis of which liability may be charged against the Builder hereunder and the Builder will give notice to the Lessee of any claim known to the Builder, as the case may be, on the basis of which liability may be asserted against the Lessee hereunder.

Item 4: The Maximum Purchase Price referred to in Article 4 of the CSA is $12,597,200.

Item 5: The Maximum Conditional Sale Indebtedness referred to in Article 4 of the CSA is $8,125,194.

ANNEX B
to
Conditional Sale Agreement

Type	Builder's Specification	Builder's Plant	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Road Numbers (Inclusive)	Estimated Time of Delivery
50 foot, 6 inch 70 ton, Class XF boxcar	No. 1042, dated March 29, 1979, as amended.	Bessemer, Alabama	308	$40,900	$12,597,200	ROCK 302042 through ROCK 302249 W&OV 1 through W&OV 100	July-August 1979

Place of delivery: Bessemer, Alabama.

Annex C to
Conditional Sale Agreement

LEASE OF RAILROAD EQUIPMENT

Dated as of July 20, 1979

between

GAMS TRANSPORTATION, INC.,

as Lessee

and

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely as Owner-Trustee for
GENERAL ELECTRIC CREDIT CORPORATION,

as Lessor

TABLE OF CONTENTS

		Page
PREAMBLE		L-1
§ 1.	Net Lease	L-2
§ 2.	Delivery and Acceptance of Units	L-3
§ 3.	Rentals	L-4
§ 4.	Term of Lease	L-6
§ 5.	Identification Marks	L-6
§ 6.	Taxes	L-7
§ 7.	Payment for Casualty Occurrences; Insurance	L-11
§ 8.	Reports	L-15
§ 9.	Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification	L-16
§ 10.	Default	L-22
§ 11.	Return of Units Upon Default	L-28
§ 12.	Assignment; Possession and Use	L-29
§ 13.	Renewal Options and Limited Right of Purchase	L-31
§ 14.	Return of Units upon Expiration of Term	L-35
§ 15.	Recording	L-38
§ 16.	Additional Opinions	L-38
§ 17.	Obligations of Owner-Trustee Under Security Document; Additional Rentals	L-39
§ 18.	Owner-Trustee's Right To Perform for the Lessee	L-39
§ 19.	Interest on Overdue Rentals	L-39

Page

§ 20. Notices L-39

§ 21. Owner-Trustee Acting as Trustee L-40

§ 22. No Recourse L-40

§ 23. Federal Income Taxes L-41

§ 24. Severability; Effect and Modification of Lease; Third Party Beneficiaries L-51

§ 25. Execution L-51

§ 26. Law Governing L-52

§ 27. Agreement for Benefit of the Owner L-52

TESTIMONIUM L-52

SIGNATURES L-52

ACKNOWLEDGMENTS L-53

SCHEDULE A L-54

SCHEDULE B L-55

LEASE OF RAILROAD EQUIPMENT dated as of July 20, 1979, between GAMS TRANSPORTATION, INC., an Ohio corporation (hereinafter called the Lessee), and FIRST SECURITY STATE BANK, a Utah corporation, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement), with GENERAL ELECTRIC CREDIT CORPORATION, a New York corporation (hereinafter called the Owner).

The Owner-Trustee has entered or will enter into a conditional sale agreement (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), pursuant to which the Owner-Trustee has agreed or will agree to purchase and take delivery of the railroad equipment described in Schedule A hereto (hereinafter called the Equipment).

The Builder is assigning its interests in the Security Document pursuant to an Agreement and Assignment (hereinafter called the Assignment) to First Security Bank of Utah, N.A., acting as Agent (hereinafter together with its successors and assigns called the Vendor), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessee, William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company (hereinafter called the Sublessee), the Owner-Trustee, the Owner and the party or parties named in Schedule A thereto (hereinafter called the Investors).

The Lessee agrees to lease from the Owner-Trustee all the units of the Equipment (or such lesser number of units as are delivered and accepted and settled for under the Security Document) at the rentals and for the term and upon the conditions hereinafter provided (each such unit so leased being hereinafter called a Unit).

To assure payment of certain of its obligations under this Lease, the Lessee, as principal, agrees to deliver or cause to be delivered to the Owner-Trustee, as obligee, a Surety Bond (hereinafter called the Bond), issued by

Great American Insurance Company, as surety (hereinafter called the Surety), and a form of Assumption and Assignment Agreement (hereinafter called the Assumption Agreement) to be entered into between the Surety (or its substitute permitted under the Bond) and the Owner-Trustee, if the Surety so elects, being attached as an exhibit thereto, substantially in the forms thereof approved by the Investors, the Vendor and the Owner-Trustee prior to the execution of this Lease.

The Lessee intends to sublease the Units pursuant to a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease) with the Sublessee, and to assign the Sublease to the Owner-Trustee pursuant to an Assignment of Sublease and Agreement dated as of the date hereof (hereinafter called the Sublease Assignment) and the Sublessee will consent to the Sublease Assignment pursuant to a Consent and Agreement substantially in the form attached thereto (hereinafter called the Sublease Assignment Consent).

The Owner-Trustee will assign certain of its rights under this Lease, the Bond, the Sublease and the Sublease Assignment as security to the Vendor pursuant to an Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement dated as of the date hereof (hereinafter called the Lease Assignment) and each of the Lessee, the Surety and Sublessee will consent to the Lease Assignment pursuant to a Consent and Agreement substantially in the form attached thereto (hereinafter collectively called the Consents).

NOW, THEREFORE, in consideration of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Owner-Trustee hereby agrees to lease 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, except as herein provided, the Lessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions, counterclaims or setoffs due or alleged to be due by reason of

any past, present or future claims of the Lessee against the Owner-Trustee or the Owner, whether under this Lease, under the Security Document or otherwise, including the Lessee's rights by subrogation hereunder or thereunder against the Owner-Trustee or the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Owner-Trustee or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or 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 Owner-Trustee, the Owner or the Vendor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Owner-Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Document; provided, however, that such acceptance shall be in accordance with the provisions of Article 3 of the Security Document. Each delivery of a Unit to the Owner-Trustee under the Security Document shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Owner-Trustee under the Security Document. Upon delivery of such Unit, the Lessee will cause an employee or agent of

the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Owner-Trustee under the Security Document and itself hereunder and to execute and deliver to the Owner-Trustee a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Document, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Owner-Trustee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next 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 delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the Security Document pursuant to the second paragraph of Article 3 or the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such Unit to this Lease. The Lessee hereby represents and warrants to the Owner-Trustee that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Lessee or its agent as agent for the Owner-Trustee hereunder.

§ 3. Rentals. With respect to each Unit subject to this Lease, the Lessee will pay to the Owner-Trustee as (i) basic rentals 74 consecutive quarterly payments, payable on January 15, April 15, July 15 and October 15 in each year, commencing July 15, 1980, and (ii) interim rental one payment on April 15, 1980. The first 68 quarterly rental payments shall each be in an amount equal to 2.5252% of the Purchase Price (as defined in the Security Document) of each Unit subject to this Lease on the date of such payment and the last six quarterly rental payments shall each be in an amount equal to 1.5126% of the Purchase Price of each Unit subject to this Lease on the date of such payment. The interim rental payment shall be in an amount equal to the product of the Purchase Price of each Unit subject to this Lease on the date of payment multiplied by .027083% for each day elapsed from and including the Closing Date (as defined in the Security Document) for such Unit to, but excluding, April 15, 1980. In the event that there is any deficiency amount required to be paid by the Owner-Trustee pursuant to the first paragraph of Paragraph 9 of the Participation Agreement, the rentals thereafter payable by the Lessee in respect of the Units shall be increased by such amount as shall, in the reasonable opinion of the Owner, cause the Owner's after-tax economic yield (computed on the same

assumptions, including tax rates, and utilizing the same methods as were utilized by the Owner in originally evaluating the transaction contemplated by the Participation Agreement) to equal the after-tax economic yield (such economic yield hereinafter called the Net Economic Return) that would have been realized by the Owner if such liability had not occurred.

In addition to the foregoing basic rentals, the Lessee will pay to the Owner-Trustee the following additional rentals: (i) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (a) of the last paragraph of Paragraph 9 of the Participation Agreement, (ii) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (b) of the last paragraph of Paragraph 9 of the Participation Agreement and (iii) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to the third paragraph of Paragraph 10 of the Participation Agreement, in each case on such date as will enable the Owner-Trustee to make such payment.

If any of the quarterly rental payment dates referred to above is not a Business Day (as such term is defined in the Security Document) the quarterly rental payment otherwise payable on such date shall then be payable on the next succeeding Business Day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next succeeding Business Day.

The Owner-Trustee irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments (other than payments under § 6 and § 23 hereof) due the Owner-Trustee provided for in this Lease including, but not limited to, all payments provided for in this § 3 and in § 7 hereof, (i) for so long as the Security Document shall remain in effect, to the Vendor, for the account of the Owner-Trustee, in immediately available funds at or prior to 11 a.m. (Salt Lake City time) to the office of the Vendor (at 79 South Main Street, Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department) on the date due, with instructions to the Vendor to apply such payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement, and (ii) if the Security Document shall no longer be in effect, to the Owner-Trustee or as directed by the Owner-Trustee in immediately available funds at such place as the Owner-Trustee shall specify in writing.

§ 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 October 15, 1998. Except for obligations of the Lessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9, 11, 14, 19 and 23 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 Vendor under the Security Document. If an event of default should occur under the Security Document as provided in § 10(D) hereof, the Vendor may terminate this Lease (or rescind its termination) and/or the Sublease (or rescind its termination) or any other sublease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Lessee will cause 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 or cause to be kept and maintained, 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 WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Owner-Trustee's title to and the Vendor's security interest in such Unit and the rights of the Owner-Trustee under this Lease and of the Vendor under the Security Document. The Lessee will not place or permit any such Unit to be placed 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 or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Lessee will not change or permit to be changed 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 Vendor and the Owner-

Trustee and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Owner-Trustee an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Owner-Trustee's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Owner-Trustee in such Units.

Except as above provided, 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; provided, however, that the Lessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Sublessee, so long as the Sublease shall remain in effect, or any other sublessee of the Equipment permitted by § 12 hereof, so long as a sublease with such sublessee shall remain in effect, or their respective affiliates, on railroad equipment used by them of the same or a similar type for convenience of identification of their respective rights to use the Equipment under the Sublease or such other sublease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Sublessee or such other sublessee therein.

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees to pay or cause to be paid, and on written demand to indemnify and hold the Owner-Trustee, the Owner, the Builder, the Vendor, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under the Security Document and the Participation Agreement harmless from all taxes (income, gross receipts, franchise, sales, use, property [real or personal, tangible or intangible], stamp and minimum [imposed under Section 56 of the Internal Revenue Code of 1954, as amended] taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Owner-

Trustee, the Owner, the Builder, the Vendor, the Investors, the Sublessee, the Lessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under the Security Document and the Participation Agreement, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; this Lease, the Lease Assignment, the Consents, the Sublease, the Sublease Assignment, the Sublease Assignment Consent, the Trust Agreement, the Participation Agreement (including the certificates of interest and the issuance thereof to Investors pursuant thereto), the Security Document, the Bond, the Assumption Agreement or the Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Security Document and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States or of any state or local government or governmental subdivision or authority thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Owner-Trustee (in its individual capacity), the Owner, the Investors, the Builder or the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease or the Sublease, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Lease or the Sublease shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Owner or any transfer or disposition

by or on behalf of the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease, without the consent of the Lessee, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence or an Event of Default shall have occurred and be continuing; (iii) any Taxes imposed on or measured by any trustee or agency fees received by the Owner-Trustee or the Vendor; and (iv) Taxes which are imposed on or measured solely by the net income of the Owner-Trustee or the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Lessee has not agreed to pay or indemnify against pursuant to this § 6; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting or causing to be contested the same in the manner provided in the fourth paragraph of this § 6. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or local government or governmental subdivision thereof, or of any foreign country or subdivision or authority thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Lessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

The amount which the Lessee shall be required to pay with respect to any Taxes indemnified against pursuant to this § 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

In the event that the Owner-Trustee shall become obligated to make any payment to the Builder, Investors, the Vendor or the estate held by the Vendor under the Security Document and the Participation Agreement pursuant to Article 6

of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, not covered by the first paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Owner-Trustee or the Owner as will enable the Owner-Trustee or the Owner to fulfill completely its obligations pursuant to said provisions. The Owner-Trustee agrees not to enter into any amendment of the Security Document or the Trust Agreement which would adversely affect the interest of the Lessee under this Lease without the written consent of the Lessee.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, or cause to be contested, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party, which consent shall not be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such indemnified party shall pay to the Lessee the amount of such refund or interest net of expenses, but only if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing.

In case any report or return is required to be made

with respect to any obligation of the Lessee under this § 6 or arising out of this § 6, except obligations resulting from the second sentence of the first paragraph of this § 6, the Lessee shall either make or cause to be made such report or return in such manner as will show the interests of the Owner-Trustee and the Vendor in the Units, or shall promptly notify or cause to be notified the Owner-Trustee, the Owner and the Vendor of such requirement and shall make or cause to be made such report or return in such manner as shall be satisfactory to the Owner-Trustee, the Vendor and the Owner. All costs and expenses (including reasonable legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

All the obligations of the Lessee under this § 6 shall survive and continue, notwithstanding payment in full of all amounts due under the Security Document or the termination of this Lease, but only with respect to periods included in the term of this Lease. Payment due from the Lessee under this § 6 shall be made directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

The Lessee shall furnish or cause to be furnished promptly, upon request, such information and data as are normally available to the Lessee and which the Owner-Trustee, the Vendor or the Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§ 7. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee, the Sublessee or any other sublessee permitted under § 12 hereof for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease (such occurrences being hereinafter called Casualty Occurrences), during the term of this Lease, or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Lessee shall

promptly and fully notify or cause to be notified (after the Lessee, the Sublessee or any sublessee permitted under § 12 hereof has knowledge of such Casualty Occurrence) the Owner-Trustee, the Owner and the Vendor with respect thereto. On the rental payment date (not earlier than the first regular quarterly rental payment date) next succeeding the delivery of such notice (or, in the event such rental payment date will occur within 15 days after delivery of notice, on the following rental payment date, or, in the event the term of this Lease has already expired or will expire within 15 days after delivery of such notice, on a date within 15 days of such delivery), the Lessee shall pay or cause to be paid to the Owner-Trustee 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 of such Unit as of such payment date (such rental payment date being hereinafter called the Calculation Date). Upon the making of such payment by or on behalf of the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Owner-Trustee shall be entitled to recover possession of such Unit.

If the date upon which the making or causing to be made of such payment by the Lessee in respect of any Unit as required as aforesaid shall be after the term of this Lease in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term but the Lessee, in addition to paying the Casualty Value for such Unit shall pay or cause to be paid interest thereon from the end of such term to the date of such payment at the greater of (i) the prime rate of interest which Manufacturers Hanover Trust Company charges on the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing and (ii) 10.75% per annum.

The Owner-Trustee hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Owner-Trustee and no Event of Default hereunder, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to retain the proceeds of such sale to the extent they do not

exceed the Casualty Value of such Unit, and shall pay any excess to the Owner-Trustee. If any such Event of Default or event has occurred and is continuing, the Lessee shall promptly pay all such proceeds to the Owner-Trustee.

The Casualty Value of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of each Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in § 23 hereof). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

In the event of the requisition for use of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall constitute 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 at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Owner-Trustee pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return rather than at the end of the term of this Lease; 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 Owner-Trustee or the Lessee from the requisitioning authority for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing; and all payments received by the Owner-Trustee or the Lessee from the requisitioning authority for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Owner-Trustee.

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 prior to the return of the Equipment to the Owner-Trustee in accordance with the terms of this Lease (including the storage period provided under §§ 11 and 14 hereof), maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Units at the time subject hereto, 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 Sublessee or any other sublessee permitted by § 12 hereof on similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $10,000,000 (with a deductible of not greater than $1,000,000) per occurrence. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee, the Lessee, the Surety, the Sublessee and any other sublessee permitted under this Lease as their respective interests may appear.

The Lessee will, at all times prior to the return of the Equipment to the Owner-Trustee in accordance with the terms of this Lease, at its own expense, carry and maintain or cause to be carried and maintained public liability insurance, naming the Owner, the Surety, the Owner-Trustee and the Vendor as additional named insureds as their respective interests may appear, 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 Sublessee or any other sublessee permitted by § 12 hereof in respect of similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $29,000,000 (with a deductible of not greater than $2,000,000) per occurrence; provided, further, in the case of any other such sublessee, the form of insurance, amounts of coverage, risks insured against and underwriters shall be subject to the prior approval of the Owner, which approval shall not be unreasonably withheld. Any policy of insurance carried in accordance with this paragraph shall not provide for any payment of premiums or commissions by the Owner, the Owner-Trustee, or the Vendor.

The Lessee shall obtain from each insurer under the two paragraphs immediately above an agreement, by endorsement or separate instrument, that such insurer will give the

Owner-Trustee, the Owner, the Surety and the Vendor 30 days' written notice before such insurer's policy shall be materially altered or canceled or not renewed. On or prior to the delivery and acceptance of any Unit hereunder and under the Security Document, and in January of each year, the Lessee shall deliver to the Owner-Trustee, the Owner, the Surety and the Vendor a certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1980, the Lessee will furnish or cause to be furnished to the Owner-Trustee, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Owner-Trustee or the Vendor may reasonably request prepared by an independent qualified engineer who may be the chief mechanical officer of the Sublessee or any other employee of the Sublessee and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and the Security Document have been preserved or replaced. The Owner-Trustee shall have the right by its agents to inspect the Units and the Lessee's and its agent's records with respect thereto at such reasonable times as the Owner-Trustee may request during the continuance of this Lease.

The Lessee agrees at its expense to prepare and deliver or cause to be prepared and delivered to the Owner-Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Owner-Trustee) any and all reports (other than income tax returns) to be filed by the Owner-Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Owner-Trustee or the Vendor of the Units or the leasing thereof to the Lessee or the subleasing thereof to

the Sublessee or any other sublessee permitted by § 12 hereof.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. NEITHER THE OWNER-TRUSTEE NOR THE OWNER MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE OWNER-TRUSTEE NOR THE OWNER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF 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 OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Owner-Trustee and the Lessee, are to be borne by the Lessee; but the Owner-Trustee hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Owner-Trustee and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Owner-Trustee may have against the Builder. The Owner-Trustee and the Owner shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance 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 Owner-Trustee that the Units described therein are in all the foregoing respects satisfactory to the Lessee; and the Lessee will not assert any claim of any nature whatsoever against the Owner-Trustee or the Owner based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Owner-Trustee, the Owner and the Vendor, to comply and to cause

the Sublessee and any other sublessee to comply with in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all the laws of the jurisdiction in which its, the Sublessee's or any other sublessee's operations involving the Unit may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will or will cause the Sublessee or any other sublessee to fully conform therewith at no expense to the Owner-Trustee or the Vendor; provided, however, that the Lessee may upon written notice to the Owner-Trustee and the Vendor, in good faith, contest or cause to be contested the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Owner-Trustee or the Vendor, adversely affect the property or rights of the Owner-Trustee or the Vendor, respectively, under this Lease or under the Security Document.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an Addition thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and, in any event, in the condition that will permit such Unit to qualify as a box car of "XF Class" as defined, as of July 20, 1979, by the Association of American Railroads; provided, however, that the Lessee shall not be required to keep any Unit in actual "XF" service.

The Lessee and its affiliates, at their own cost and expense, may from time to time make or permit the Sublessee or any other sublessee permitted under § 12 hereof to make such alterations, modifications and additions (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the United States Department of Transportation, the Interstate Commerce Commission or any other legislative,

executive, administrative or judicial body exercising any power or jurisdiction over such Unit) (hereinafter collectively called Additions) to the Units as the Lessee may deem desirable in the proper conduct of its or any sublessee's business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease; provided, however, that no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such addition not been made assuming the Unit was then in the condition required to be maintained by the terms of this Lease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Owner-Trustee and be subject to a valid first lien and prior perfected security interest under the Security Document in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for, any such original Part, (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the terms of the second or third paragraph of this § 9 or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee or its sublessees. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Lessee shall pay or cause to be paid, and shall protect, indemnify and hold the Owner-Trustee, the Owner, the Investors and the Vendor (for purposes of this paragraph only, as defined in the Security Document), and their respective successors, assigns, principals, agents and servants (hereinafter called Indemnified Persons), as third party beneficiaries hereof, 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 reasonable 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, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or imposed by statute; (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 Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder) or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Owner-Trustee's obligations under the Lease Assignment, the Security Document or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Owner-Trustee; (viii) any claim arising out of the Vendor's holding a security interest under the Security Document or the Lease Assignment; or (ix) any claim for any service fee, selling fee, purchase fee, finder's fee and/or commission in connection with the Units; excluding,

however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant under the Security Document by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A to the Security Document. All payments hereunder shall be made directly to the Indemnified Person. 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 reasonable 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 reasonable 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 or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Owner-Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any indemnities as contained in this § 9 by the Lessee, and provided that no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing,

the Lessee shall be subrogated to any right of such Indemnified Person 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 such 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 in respect of such matter.

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

In the event that the Owner-Trustee shall become obligated to make any payment to the Investors or the Vendor (for purposes of this paragraph only, as defined in the Security Document) pursuant to Article 13 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, not covered by the foregoing provisions of this § 9, the Lessee shall pay such additional amounts to the Owner-Trustee or the Owner as will enable the Owner-Trustee or the Owner to fulfill completely its obligations pursuant to said provisions; provided, however, no such payment shall be required with respect to payments arising as a result of the gross negligence or wilful misconduct of the Owner-Trustee or the Owner.

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 occur-

ring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Owner-Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of any payment or other obligation, including without limitation the payment of any installments of principal or interest, under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

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

(A) payment of any part of the rental provided in § 3 or § 13 hereof or payment in respect of any Casualty Occurrence pursuant to § 7 hereof shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for 10 business days after such payment is due; or

(B) (x) any representation or warranty of the Lessee contained in the Participation Agreement or herein (except the representations and warranties contained in § 23 hereof) shall have been incorrect in any material respect as of the date when made, unless (i) such misrepresentation or the breach of such warranty has been cured, if curable, within 30 days after written notice thereof to the Lessee from the Owner-Trustee or the Vendor, or (ii) there is no material adverse effect on the rights of the Owner-Trustee, the Owner or the Vendor hereunder resulting from such misrepresentation or breach, or (iii) any damages resulting from such misrepresentation or breach shall have been paid within 30 days after demand therefore, to the satisfaction of the Owner-Trustee, the Owner and the Vendor, or (y) 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 or in the Par-

ticipation Agreement, and such default shall continue for 30 days after written notice from the Owner-Trustee or the Vendor to the Lessee and the Surety specifying the default and demanding that the same be remedied; or

(C) the Lessee shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or any of its properties or assets, (ii) be unable, or admit in writing its inability, to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated a bankrupt or insolvent or (v) file a voluntary petition in bankrutpcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or if corporate action shall be taken by it for the purpose of effecting any of the foregoing; or any proceedings shall be commenced against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease or under the Participation Agreement 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 Participation Agreement), and such proceedings shall continue unstayed and in effect for any period of 60 days; or

(D) an event of default set forth in subparagraph (e) with respect to the Surety, or in subparagraph (g), of Article 15 of the Security Document shall have occurred; or, any other event of default set forth in such Article 15 shall have occurred and either (i) such event results from any default by the Lessee in performing any of its obligations hereunder or under the Participation Agreement or (ii) the Payments (as defined in the Lease Assignment) are not being applied by the Owner-Trustee as provided in Paragraph 1 of the Lease Assignment;

then, in any such case, if the Sublease is then in effect, upon notice by the Owner-Trustee to the Lessee, and without

any other action or consents (i) the participation of the Lessee as sublessor under the Sublease or any other sublease shall be terminated and (ii) the Owner-Trustee shall be substituted for the Lessee, for all purposes, as the sublessor under the Sublease or such other sublease, and, whether or not such notice is given, the Owner-Trustee may 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. The Owner-Trustee, at its option, may, in any such case:

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

(b) by notice in writing to the Lessee terminate this Lease,* whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Owner-Trustee may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Owner-Trustee shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not

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* Notice: termination of this Lease prior to the end of certain periods provided in the Bond may prevent satisfaction of certain conditions precedent to recovery under the Bond.

as a penalty, whichever of the following amounts the Owner-Trustee, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) 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 (2) the then present value of the rentals which the Owner-Trustee reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 8% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Owner-Trustee shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount 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 amount the Owner-Trustee reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Owner-Trustee shall have sold or leased any Unit, the Owner-Trustee, in lieu of collecting any amounts payable to the Owner-Trustee by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Owner-Trustee and the Lessee shall pay to the Owner-Trustee on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such a sale an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale, and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Lease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Owner-Trustee reasonably estimates to be

obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Lease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 8% per annum discount, compounded, in the case of rental which is estimated under clause II of this sentence, quarter-annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

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 Owner-Trustee's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Owner-Trustee 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 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 any offset against the rental payments due hereunder and agrees to make such rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Owner-Trustee to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Owner-Trustee.

The Lessee also agrees to furnish the Owner-Trustee, the Owner, the Surety and the Vendor, promptly upon any responsible officer's becoming aware of any condition which

constitutes an Event of Default, or which with 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 § 10 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 official of the Lessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

The Lessee acknowledges that the Owner-Trustee and the Surety have entered into the Bond which provides that in the event of an Event of Default under this Lease, the Surety or the Surety's substitute permitted under the Bond (references to Surety in this paragraph to mean Surety or the Surety's substitute) shall have the right to assume all the rights and obligations of the Lessee under this Lease and to receive an assignment of this Lease and/or of the Owner-Trustee's rights against the Lessee under this Lease. The Lessee agrees that upon receiving notice of any such assumption from the Surety, it will upon request of the Surety and at the option of the Surety (i) deliver possession of the Units to the Surety and convey, transfer or assign to the Surety as provided in § 11 below as though the Surety were named as the Owner-Trustee therein all the Lessee's right, title and interest in the Sublease and any other subleases, car contracts or other agreements with respect to the Units and take any other action and execute any documents reasonably requested by the Surety or the Owner-Trustee, which such delivery of the Units and conveyance, transfer or assignment shall terminate Lessee's leasehold interest in the Units but shall not release Lessee from any unfulfilled obligations under this Lease or (ii) become the sublessee of the Surety in respect of the Units with the rights and obligations of the Surety and the Lessee being the same as if the Surety had originally been designated as the lessor under this Lease in place of the Owner-Trustee. Lessee further acknowledges and agrees that no payment by Surety or for Surety's account, to the Owner-Trustee, whether under the Bond or pursuant to said assumption or otherwise, shall constitute an amount arising in respect of a sale or lease of the Units of Equipment for purposes of measuring liquidated damages recoverable, whether by Owner-Trustee or the Surety or any other person and whether by subrogation, assignment of rights or otherwise, from the Lessee pursuant to paragraph (b) of this § 10.

§ 11. Return of Units Upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver or cause to be delivered possession of the Units to the Owner-Trustee and shall give or cause to be given prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Owner-Trustee pursuant to this § 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear and modifications, if any, permitted by this Lease excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any Unit or Units to the Owner-Trustee as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Owner-Trustee and there assembled,

(b) furnish and arrange for the Owner-Trustee to store such Units on any lines of railroad or premises approved by the Owner-Trustee until such Units have been sold, leased or otherwise disposed of by the Owner-Trustee, and

(c) cause the Units to be moved to such interchange point or points as shall be designated by the Owner-Trustee upon any sale, lease or other disposal of all or any of the Units.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee (and the Lessee will maintain the insurance required by § 7 of this Lease to be maintained during this period) and are of the essence of this Lease; and, upon application to any court of equity having jurisdiction in the premises, the Owner-Trustee 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 Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of any such Unit, to

inspect the same. In the event that the Units or any thereof are sold, the Lessee shall pay to the Owner-Trustee the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Owner-Trustee as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Owner-Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time and to give all appropriate notices and directions to the Association of American Railroads to change the registration of such Unit from the Lessee or the Sublessee to the Owner-Trustee or as the Owner-Trustee may direct.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Owner-Trustee without the consent of the Lessee; but the Lessee shall be under no obligation to any assignee of the Owner-Trustee other than the Vendor except upon written notice of such assignment from the Owner-Trustee. All the rights of the Owner-Trustee hereunder (including, but not limited to, the rights under §§ 6, 7, 10 and 23 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Owner-Trustee's successors and assigns, including the Vendor, except to the extent the same may be reserved to the Owner-Trustee.

So long as no Event of Default hereunder shall have occurred, the Lessee shall be entitled to the possession of the Units in accordance with the terms of this Lease but, except pursuant to the Sublease or as permitted by the provisions of the following two paragraphs, 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 as permitted by the provisions of the following two paragraphs and other than an encumbrance created by the Owner, the Owner-Trustee or the Vendor and not the result of an Event of Default or resulting from claims against the Owner, the

Owner-Trustee or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Owner-Trustee, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor and the Owner-Trustee, materially adversely affect the interest of the Vendor or the Owner-Trustee in the Equipment, the Vendor's interest in the income and proceeds from the Equipment, or otherwise under this Lease or the Security Document. Except pursuant to the Sublease and except to the extent permitted by the provisions of the following two paragraphs, the Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units.

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 hereof and to permit the use of the Units by the Sublessee or by a railroad company or companies incorporated in the United States of America with which the Sublessee has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights or over which railroad equipment of such railroad company or companies 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, the Sublease and the Security Document; provided, however, that the Lessee shall not assign, sublease or permit the assignment, sublease or use of any Unit predominantly outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), nor shall the Lessee assign or sublease to, or permit the sublease or use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of the Code. The Lessee and the Sublessee may receive and retain compensation for such use from other railroads so using any of the Units.

Upon termination of the Sublease, if the Lessee shall not be in default under this Lease, the Lessee may sublease the Units to or otherwise enter into agreements (any such sublease or agreement being herein called a sublease) for the use of the Units by a railroad company or companies or other user of rolling stock, provided that (i) the sublease shall contain provisions similar to §§ 3 (fourth paragraph), 4 (fourth paragraph), 10(E) and 12 (proviso in the third paragraph) of the Sublease and such sublease shall not have a term (together with renewal options) beyond the term of this Lease (together with renewal options), (ii) such sublease shall be assigned to the Owner-Trustee under an assignment and agreement substantially in the form of the Sublease Assignment (together with a Consent and Agreement of the sublessee in the form attached thereto) and, if the Security Document is still in effect, assigned by the Owner-Trustee to the Vendor under an assignment and agreement substantially in the form of the Lease Assignment (together with a Consent and Agreement of the sublessee in the form attached thereto) and (iii) the sublease shall not contain any provisions which would, or the performance of which would, with notice or lapse of time or both, result in an Event of Default under this Lease.

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

§ 13. Renewal Options and Limited Right of Purchase. The Owner-Trustee intends to retain the Units for re-lease at the expiration of the term of this Lease. 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 Owner-Trustee not less than six months prior to the end of the original term of this Lease elect to extend the term of this Lease in respect of

all, but not fewer than all, the Units then covered by this Lease for one additional three-and-one-half-year period commencing on the scheduled expiration of the original term of this Lease, at a quarterly rental equal to the sum of (i) 1.0126% of the Purchase Price of each Unit subject to this Lease on the date such rental is payable and (ii) the quarterly premium on the Bond as provided therein; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Lease.

Provided that this Lease has not been earlier terminated, the Lessee is not in default hereunder, the Lessee has not elected to extend this Lease under the first paragraph of this § 13, the Sublease has not been earlier terminated, the Sublease has been extended as provided in the first paragraph of § 13 thereof and the Sublessee is not in default thereunder, the Sublessee may, as third-party beneficiary hereof, by written notice delivered to the Owner-Trustee not more than six nor less than four months prior to the end of the original term of this Lease elect, on its own behalf, subject to the approval of the then credit standing of the Sublessee by the Owner, which approval shall not be unreasonably withheld, to extend the term of this Lease and assume the obligations of the Lessee hereunder for one additional three-and-one-half-year period commencing on the scheduled expiration of the original term of this Lease at a quarterly rental rate equal to the Rock Island Fair Market Rental Value (as defined below) of each Unit then subject to this Lease; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of such three-and-one-half-year term. Any such election, extension and assumption of the Lease pursuant to this paragraph by the Sublessee shall be in its own capacity (and not as agent for the Lessee) and the Owner-Trustee agrees that the Lessee shall not be a party to or liable for any obligations arising under this Lease during such extension and hereby releases the Lessee with respect to any such obligations.

Provided the Lessee exercises the renewal option provided in the first paragraph of this § 13, and 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 Owner-Trustee not less than six months prior to the end of the original term of this Lease, as extended pursuant to the first paragraph of this § 13,

elect to extend the term of this Lease in respect of all, but not fewer than all, the Units then covered by this Lease for one additional five-year period commencing on the scheduled expiration of the term of this Lease (as so extended), at a quarterly rental rate equal to the Fair Market Rental Value of each Unit then subject to this Lease; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Lease.

"Fair Market Rental Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing lessee-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to so further extend the term of this Lease pursuant to the third paragraph of this § 13, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value of the Units, such value shall be determined in accordance with the foregoing definition by the following appraisal procedure: If either party to such determination shall have given written notice to the other requesting determination of such value 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 prior to the expiration of the original term of this Lease, as extended pursuant to the first paragraph of this § 13. 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, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall be

final and binding upon 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 by the Lessee.

"Rock Island Fair Market Rental Value" shall be determined on the basis of the value which would be obtained as of the commencement of the renewal period referred to in the second paragraph of this § 13 in an arm's length transaction between an informed and willing lessee-user with a credit standing comparable to the credit standing of the Sublessee at the commencement of such period (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease. If, after 60 days from the giving of notice by the Sublessee of the Sublessee's election to extend the term of this Lease pursuant to the second paragraph of this § 13, the Owner-Trustee and the Sublessee are unable to agree upon a determination of the Rock Island Fair Market Rental Value of the Units, the right of the Sublessee to extend this Lease under the election in the second paragraph of this § 13 shall expire.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, and in the event the Lessee has elected to extend the original term of this Lease pursuant to the first paragraph of this § 13 but has not elected to extend the term of this Lease (as so extended) pursuant to the third paragraph of this § 13 and the Owner-Trustee elects to sell any Units to third parties at the expiration of the term of this Lease (as so extended), the Lessee shall be given written notice of such election prior to the expiration of the term of this Lease, as so extended (such date being hereinafter called the Expiration Date). Subject to the first sentence of this paragraph, in the event that the Owner-Trustee shall receive, prior to 90 days after the Expiration Date, a bona fide offer in writing from another party to purchase the Units and the Owner-Trustee elects to sell the Units pursuant to such offer, the Owner-Trustee shall give written notice to the

Lessee of such offer. Such notice shall be given to the Lessee on any date between 60 days before and 90 days after the Expiration Date and shall include the price and, if such offer was for other than solely cash, the other terms and conditions offered by the other party to the Owner-Trustee. The Lessee shall have the sole right and option, for a period of 20 days from the date of delivery of such notice, to purchase the Units for cash at the price, or at the price and (after giving effect to credit standing of the Lessee at the time of exercise of such purchase right) on substantially similar terms and conditions, at which the Units are proposed to be sold. The Lessee shall exercise such purchase right by delivery to the Owner-Trustee of a written notice specifying a date of purchase, which date shall not be later than the later of (i) 15 days after the date of delivery of such notice by the Lessee to the Owner-Trustee or (ii) 45 days after the Expiration Date. In the event that the Lessee shall have delivered a notice of its election to purchase the Units, this Lease (including the obligation to pay rent) shall be further extended or renewed upon the same terms and conditions set forth herein from the Expiration Date or the date such notice is delivered, as the case may be, to the Owner-Trustee until the date of such purchase.

§ 14. Return of Units upon Expiration of Term. On or prior to the termination of the term of this Lease or as soon as practicable on or after the termination of the term of this Lease and in any event not later than 90 days after the termination of the term of this Lease the Lessee will, at its own cost and expense, at the request of the Owner-Trustee, cause each Unit to be transported to such point or points on the Sublessee's or any sublessee's lines as shall be designated by the Owner-Trustee immediately prior to such termination and arrange for the Owner-Trustee to store such Unit on any of Sublessee's or any sublessee's lines of railroad or premises approved by the Owner-Trustee for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 120 days from the date at which at least 95% of such Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable for any injury to or the death of any person

exercising, either on behalf of the Owner-Trustee or any prospective purchaser or user, the rights of inspection granted under this sentence, except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents and except to the extent otherwise provided by law. The assembly, 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 Owner-Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Owner-Trustee pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Owner-Trustee pursuant to § 9 hereof and have removed therefrom at Lessee's expense any Part or Addition title to which is in the Lessee or any other person pursuant to such § 9 and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. If any Unit suffers a Casualty Occurrence during any period prior to its return to the Owner-Trustee as provided for in this § 14 or during any storage period provided for in this § 14, the Lessee shall pay to the Owner-Trustee the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of the term of this Lease as to such Unit, belong to and be the property of the Owner-Trustee. In the event that by the 120th day after the termination of the original or any extended term of this Lease the Lessee has not, at the request of the Owner-Trustee, caused at least 95% of the Units to be transported to such point or points as shall have been designated by the Owner-Trustee pursuant to this § 14, the Lessee shall pay to the Owner-Trustee the per diem interchange multiplied by the number of Units equal to the difference between 95% of such Units and the number of Units previously delivered pursuant to this § 14 (such number to be determined on each day) for each day from such 120th day to the date on which at least 95% of the Units have been so transported. If, after the termination of the storage period provided in this § 14, any Units have not been so transported, the Lessee shall pay to the Owner-Trustee the per diem interchange for each Unit not so transported for each day after the end of such storage period until such

Unit or Units have been so transported; provided, however, that if any Unit has not suffered a Casualty Occurrence prior to the first anniversary of the termination of this Lease and has not been so transported within one year after the termination of the term of this Lease, such Unit shall be deemed to have suffered a Casualty Occurrence and the Lessee shall pay or cause to be paid to the Owner-Trustee, on the 10th day after the expiration of such year, an amount equal to the greater of (x) the Casualty Value of such Unit as of such payment date or (y) the Fair Market Value of such Unit as of the date this Lease terminated and assuming such Unit had not experienced a Casualty Occurrence and was then in the condition required to be maintained by the terms of this Lease. If, after 10 days from the expiration of such year, the Owner-Trustee and the Lessee are unable to agree upon a determination of the Fair Market Value of any such Unit, such value shall be determined in accordance with the appraisal procedure specified in the fourth paragraph of § 13 hereof and payment of such amount shall be made on the fifth business day following the determination of such Fair Market Value. "Fair Market Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing buyer (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell.

Upon the expiration of the original term of this Lease on October 15, 1998, if neither the Lessee nor the Sublessee shall not have elected to exercise the renewal options provided by the first and second paragraphs of § 13 hereof, the Lessee will deliver to the Owner-Trustee a certificate of an officer of the Lessee to the effect that (a) no Event of Default or event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of October 15, 1998; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against the Owner-Trustee or the Owner) were, as of October 15, 1998, imposed on or with respect to any Unit, any accession thereto, or the interest of the Owner-Trustee or the Owner therein; (c) the Units have been returned to the Owner-Trustee pursuant to this § 14 in the same operating order, repair and condition required by the first paragraph of this § 14 and (d) the Lessee no longer has any interest in the Units under the Lease or otherwise. If a certificate of an officer of the Lessee is required to be furnished pursuant to the preceding sentence, the certificate described in clause (a) in the

preceding sentence shall be furnished on October 15, 1998, and the certificates described in clauses (b), (c) and (d) in the preceding sentence, in addition to being furnished on October 15, 1998, shall be furnished on a monthly basis, beginning on November 15, 1998, and such certificates shall cover each Unit returned during the preceding 30 calendar days and shall apply to each such Unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this § 14. Upon the expiration of any extended term of this Lease, if the Lessee shall not have elected to exercise any further renewal option or if the Lessee shall have no such further renewal option, the Lessee shall deliver to the Owner-Trustee a certificate or certificates of an officer of the Lessee to the foregoing effect, with such conforming changes as shall be appropriate under the circumstances.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the Security Document, the Lease Assignment, the Sublease, the Sublease Assignment, any sublease permitted by § 12 hereof (including the required assignment and reassignment thereof), and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessee will, at its own expense, undertake the filing, registering, deposit, and recording required of the Owner-Trustee under the Security Document 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 Owner-Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Owner-Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Document or the Lease Assignment.

§ 16. Additional Opinions. The Lessee will promptly furnish to the Vendor and the Owner-Trustee evidence of every filing, registering, depositing or recording required pursuant to § 15 hereof, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Owner-Trustee. This Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 17. Obligations of Owner-Trustee Under Security Document; Additional Rentals. In the event that the Owner-Trustee shall become obligated to make any payment (other than payments in settlement for Equipment or the principal of or interest on the Conditional Sale Indebtedness (as defined therein) pursuant to the Security Document and pursuant to the proviso to the third paragraph of Article 12 thereof) or to perform any obligations pursuant to the Security Document 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 Owner-Trustee's obligations (other than as aforesaid) pursuant to the Security Document shall be fully complied with, without regard for any limitation of liability of the Owner-Trustee contained in the Security Document.

§ 18. Owner-Trustee's Right To Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein or in the Bond, the Owner-Trustee may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Owner-Trustee incurred in connection with such performance or compliance, together with interest on such amount at the rate of 10.75% per annum (or such lesser amount as may be legally enforceable), shall be payable by the Lessee upon demand.

§ 19. 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 an amount equal to interest at a rate of 10.75% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 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 delivered to such other party or by registered or certified mail, postage prepaid, addressed as follows:

if to the Owner-Trustee, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Division;

if to the Lessee, care of Thayer, Ringoen & Macdonald, 50 California Street, San Francisco,

California 94111, attention of President;

if to the Owner, at P. O. Box 8300, Stamford, Connecticut 06904, Attention of Manager-Operations, Leasing and Industrial Loans, with a separate copy to Attention of Manager-Rail Component;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party. Any notice to the Lessee by the Vendor or the Investors regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Owner-Trustee.

§ 21. Owner-Trustee Acting as Trustee. The representations, undertakings and agreements herein made on the part of the Owner-Trustee are made and intended for the purpose of binding only the Trust Estate as such term is defined in the Trust Agreement.

Whenever the term Owner-Trustee is used in this Lease it shall apply and refer to the Owner-Trustee and any assignee of the Owner-Trustee.

§ 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 Owner-Trustee or the Lessee, or against the Owner or any other beneficiary of a trust for which the Owner-Trustee is acting as trustee, 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, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

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 Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements

by the Owner-Trustee, or for the purpose or with the intention of binding the Owner-Trustee personally but are made and intended for the purpose of binding only the Trust Estate and this Agreement is executed and delivered by the Owner-Trustee solely in the exercise of the powers expressly conferred upon the Owner-Trustee as Owner-Trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Owner-Trustee or the Owner on account of any representation, undertaking or agreement hereunder of the Owner-Trustee or the Owner, either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 of the Security Document and subparagraph (a) of the third paragraph of Article 4 of the Security Document; 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; provided, however, that the Lessee or any person claiming by, through or under the Lessee making claim hereunder, may look to said Trust Estate for satisfaction of the same.

§ 23. Federal Income Taxes. This Lease has been entered into on the basis that an opinion of the chief mechanical officer of the Sublessee to the effect described in subsection (iv) of Paragraph 8 of the Participation Agreement will be provided to the Owner; that the Owner, as the beneficial owner of each Unit, shall be entitled to such deductions, credits and other benefits provided by the Code to an owner of property, including, without limitation, (a) deductions for depreciation of each Unit under section 167 of the Code computed on the basis (i) that each Unit will have a basis under section 167(g) of the Code at least equivalent to the Purchase Price of such Unit, (ii) initially of the declining balance method, using a rate equal to 200% of the straight line rate, switching to the sum of the years-digits method authorized by section 167(b)(3) of the Code in the year in which such switch will result in a greater depreciation deduction than would be available under the declining balance method, without obtaining the consent of the Commissioner of Internal Revenue in accordance with Treasury Regulation § 167(a)-11(c)(1)(iii), (iii) of the asset depreciation range and class life system permitted by section 167(m) of the Code and Treasury Regulation § 1.167(a)-11(a)(1), (iv) of an asset depreciation period of 12 years, (v) of a net salvage value of zero after the reduction permitted by section 167(f)(1) of the Code and (vi) that the Units of Equipment shall be treated as having been placed in

service on the respective dates on which they are accepted and delivered under this Lease and the Security Document (hereinafter called the ADR Deductions), (b) deductions with respect to interest payable on the Conditional Sale Indebtedness (hereinafter called the Interest Deductions), and (c) investment credit pursuant to section 38 of the Code at least equal to 10% of the aggregate Purchase Price of such Unit (hereinafter called the Investment Credit). This Lease has also been entered into on the assumption that (1) for Federal income tax purposes all amounts includible in the gross income of the Owner with respect to the Equipment and all deductions allowable to the Owner with respect to the Equipment will be treated as derived from, or allocable to, sources within the United States, (2) for purposes of computing the ADR Deductions with respect to the Equipment for the calendar year in which the Units of Equipment were first placed in service, the Owner will be entitled to elect and will elect the half-year convention and (3) the Federal rate of tax imposed on taxable income of corporations in excess of $100,000 will be 46% through the date of acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing.

The Lessee agrees to use its best efforts to maintain sufficient records to verify the amount of income and deductions in respect of each Unit of Equipment allocable to sources within and without the United States. The Lessee agrees to give the Owner, within 60 days after request therefor, written notice describing the amount of income and deductions allocable to sources within and without the United States and specifying in reasonable detail the basis on which such allocations were made, if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner. In addition, within 90 days after the end of each calendar year, beginning with the year 1979, the Lessee agrees to furnish to the Owner a statement to the effect that none of the Equipment has been

used outside of the United States other than in Canada or Mexico on a temporary basis not exceeding 90 days during the preceding calendar year, or if any of the Equipment was used outside the United States during such year, giving the appropriate details of any such use, which statement shall be signed by the chief financial officer of the Lessee.

The Lessee represents and warrants that (i) all of the Units constitute property the entire Purchase Price of which qualifies for the Investment Credit under Section 50 of the Code; (ii) at the time the Owner-Trustee becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of section 48(b) of the Code and at the time the Owner-Trustee becomes the owner of the Units, the Units will not have been used or placed in service by any person so as to preclude "the original use of such property" within the meaning of sections 48(b) and 167(c)(2) of the Code from commencing with the Owner-Trustee; (iii) at all times during the original term of this Lease and all renewal terms, each Unit will constitute "section 38 property" within the meaning of section 48(a) of the Code; and (iv) at all times during the original term of this Lease and the renewal periods, the Owner will be entitled to treat, for Federal income tax purposes, each item of income, deduction and credit relating to all Units subject to this Lease as being derived from, or allocable to, sources within the United States.

If, for Federal income tax purposes, as a result of any reason whatsoever, but excluding any of the specific occurrences or events specified in the sixth paragraph of this § 23, (a) the Owner shall not be entitled to, shall suffer a disallowance or recapture of, shall lose the benefit of, or shall lose the right to claim (including a good faith determination based upon the opinion, to be obtained at the cost of the Lessee, of independent tax counsel of the Owner approved by the Lessee ("Special Tax Counsel"), which approval shall not be unreasonably withheld, that such claim is not allowable), all or any portion of the Investment Credit, the ADR Deductions or the Interest Deductions or (b) any item of income, deduction or credit with respect to the Equipment shall not be treated as derived from, or allocable to, sources within the United States (any such event described in clause (a) or (b) of this paragraph being hereinafter called a Loss), then the Lessee, at its option, after receiving written notice from the Owner of

such Loss together with a certificate of an officer of the Owner setting forth in reasonable detail the computations and methods used in calculating such Loss and the amount or amounts of the payments required to be made pursuant to clause (i) or (ii) below (such notice and certificate being hereinafter collectively called the Net Economic Return Notice), shall either (i) commencing with the next rental payment date occurring more than 30 days after receipt by the Lessee of the Net Economic Return Notice, which Net Economic Return Notice may not be delivered more than 30 days prior to payment by the Owner of the tax which becomes due as a result of the Loss, increase the rental payments under this Lease over its remaining term by an amount as shall cause the Owner's Net Economic Return (as defined in § 3 of this Lease) to equal the Net Economic Return that would have been realized by the Owner if such Loss had not occurred, such increase in the rental payments to be made directly to the Owner, or (ii) within 30 days of receipt of the Net Economic Return Notice, pay to the Owner in lump sum the amount as shall, in the reasonable opinion of the Owner, be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred. If the option under (ii) above is selected, then to the extent any Loss results in a later benefit to the Owner which has not been taken into account in determining the lump-sum payment, payment will be made to the Lessee at the time such benefit is realized; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Owner pursuant to the option specified in (ii) above in respect of a Loss less (y) the amount of all prior payments by the Owner to the Lessee hereunder, and the amount by which such payment would exceed such amounts shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Owner pursuant to the option specified in (ii) above. The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions as were utilized by the Owner in originally evaluating the transaction except for the assumption that has resulted in such adjustments.

In the event that the Owner suffers a Loss and the Owner and the Lessee are unable to agree, within 60 days following the Lessee's receipt of a Net Economic Return Notice, on the indemnity amounts or amounts required to restore the

Owner's Net Economic Return, then the Lessee shall pay in a lump sum within 30 days after expiration of said 60-day period, such amount as shall, in the reasonable opinion of the Owner (regardless of whether the Lessee agrees therewith) be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred.

If there is any amendment to, or change in, the Code or any regulation thereunder which is effective on or prior to the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease, and if such amendment or change affects the privilege of the Owner to file consolidated Federal, state and local income tax returns with corporations affiliated with it, or the Federal rate of tax on the taxable income of corporations, then the amounts of rentals and the Casualty Values under this Lease will be appropriately adjusted by such amount or amounts as shall, in the reasonable opinion of the Owner, cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such amendment or change had not occurred; provided, however, that the rentals and Casualty Values, as so adjusted, shall not be less than amounts sufficient to satisfy the obligations of the Owner-Trustee under the Security Document.

Any late payment by any party hereto of any of its obligations under this § 23 shall result in the obligation on the part of such party promptly to pay an amount equal to interest at the rate per annum equal to 1% in excess of the Prime Rate compounded quarterly on the overdue payment. Prime Rate as used herein shall mean the rate per annum which Manufacturers Hanover Trust Company, New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable.

Notwithstanding anything to the contrary set forth hereinabove, no amount shall be payable as an indemnity hereunder to the Owner in respect of any Loss to the extent such Loss is the result of any of the following on the part of the Owner:

(i) a voluntary transfer or voluntary disposition (whether prior to, during or after the term of this Lease or the Sublease, but not including a transfer or

disposition as a result of a Casualty Occurrence) of any Units or of the interest of the Owner in any Units or the rentals under this Lease or the Sublease, or any transfer or disposition of any Units or of the interest of the Owner in any Units or the rentals under this Lease or the Sublease, whether voluntary or involuntary, which results from bankruptcy or other proceedings for the relief of debtors in which the Owner is the debtor, unless, in each case, such transfer or disposition is made (A) after an Event of Default, as defined in § 10 of this Lease, has occurred and is continuing; (B) in connection with any alteration, modification or addition to any Unit; or (C) with the consent of the Lessee;

(ii) the failure of the Owner to claim in a timely manner the Investment Credit, the ADR Deductions (including making all appropriate elections under the applicable Income Tax Regulations), the Interest Deductions or any foreign tax credit or to make a timely election, if permitted by the Code, to treat income and deductions with respect to the Equipment as derived from, or allocable to, sources within the United States, unless Special Tax Counsel of the Owner shall have given its opinion to the Owner that such claim is not allowable;

(iii) the failure of the Owner to have sufficient liability for Federal income tax against which to credit Investment Credit or foreign tax credit or sufficient income to benefit from the ADR Deductions or the Interest Deductions, as applicable;

(iv) any residual sharing, guarantee agreement or other voluntary act of the Owner (either individually or in concert with others) which is not included in the foregoing clauses and which is not required or contemplated by the Security Document, the Participation Agreement, the Trust Agreement, this Lease, the Sublease, the Sublease Assignment, the Sublease Assignment Consent, the Lease Assignment, the Consents, the Assignment, the Bond, the Assumption Agreement if entered into or any other document contemplated by any of the foregoing or entered into in connection therewith;

(v) a change in the form or type of organization or the taxable status of the Owner or any successor or transferee of the Owner;

(vi) a Casualty Occurrence with respect to a Unit, if the Owner-Trustee shall have received all amounts required to be paid in respect of such Casualty Occurrence under this Lease; or

(vii) any amendment to, or change in, the Code or the Income Tax Regulations which is effective after the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

If at the conclusion of an audit the Owner receives a preliminary or "30-day" letter from the Internal Revenue Service proposing an adjustment in any item claimed in accordance with the fifth paragraph of this § 23 on a tax return or refund claim of the Owner for which the Lessee would be required to indemnify the Owner pursuant to this § 23 and the amount of the indemnity which the Lessee would be required to pay would exceed $100,000 or, in the good faith of the Lessee, the adjustment would have a substantial and continuing precedental adverse effect on the Lessee or the Sublessee or the railroad industry and the Lessee so advises the Owner in writing, then, if requested by the Lessee in a timely written request, the Owner shall request an opinion from Special Tax Counsel of the Owner as to whether the basis in law and in fact in favor of allowance of the item proposed to be adjusted outweighs the basis in law and in fact to the contrary. If the opinion is to that effect and if the Lessee promptly requests the Owner to do so, the Owner shall contest the proposed adjustment; provided, however, that Special Tax Counsel of the Owner shall determine the nature of all action to be taken to contest such proposed adjustment including (A) whether any action to contest such proposed adjustment shall initially be by way of judicial or administrative proceedings, or both, (B) whether any such proposed adjustment shall be contested by resisting payment thereof or by paying the same and seeking a refund thereof, and (C) if the Owner shall undertake judicial action with respect to such proposed adjustment, the court or other judicial body before which such action shall be commenced. The Owner shall have full control over any contest pursuant to this paragraph and shall not be obligated to appeal an adverse determination by any court if the Owner shall have obtained an opinion from its Special Tax Counsel that the basis in law and in fact in favor of a favorable outcome in the event such determination is appealed outweighs the basis in law and in fact to the contrary. At any time, whether before or after commencing to take the

action set forth in this paragraph, the Owner may decline to take such action by notifying the Lessee in writing that the Lessee is relieved of its obligation to indemnify the Owner with respect to the adjustment proposed by the Internal Revenue Service or such portion thereof as may be specified in such notice.

The Owner shall not be required to take any action pursuant to the preceding paragraph unless and until the Lessee shall have agreed to indemnify the Owner in a manner reasonably satisfactory to the Owner for any liability or loss which the Owner may incur as a result of contesting the validity of any proposed adjustment and shall have agreed to pay to the Owner on demand all costs and expenses which the Owner may incur in connection with contesting such proposed adjustment (including reasonable fees and disbursements of counsel selected by the Owner). If the Owner determines to contest any adjustment by paying the additional tax and suing for a refund, the Lessee shall have paid to the Owner an amount equal to the sum on an after-tax basis of any tax, interest, penalties and additions to tax which are required to be paid. Upon receipt by the Owner of a refund of any amounts paid by it based on the adjustment in respect of which amounts it shall have been paid an equivalent amount by the Lessee, the Owner shall pay to the Lessee the amount of such refund together with any interest received by it on such amount, and if such refund is not taxable income to the Owner, and if payment under this or the preceding paragraph to the Lessee is deductible by the Owner for Federal income tax purposes, then the Owner shall also pay to the Lessee the amount by which the Owner's taxes are reduced as the result of such deduction; provided, however, that in no event shall the total amount paid to the Lessee pursuant to this or the preceding paragraph with respect to a particular refund exceed the amount paid by the Lessee to the Owner in connection with the payments made pursuant to the immediately preceding sentence to which such refund relates.

For purposes of this § 23, the term "Owner" shall include any affiliated group, within the meaning of Section 1504 of the Code, of which the Owner is a member if consolidated returns are filed for such affiliated group for Federal income tax purposes.

If the Owner is required by the Internal Revenue Service to include in its gross income an amount in respect of any improvement and/or addition to such Unit of Equipment

made by the Lessee, title to which vests in the Owner or the Owner-Trustee (which amounts are hereinafter called Capital Expenditures), then the Lessee shall pay directly to the Owner, as an indemnity, in immediately available funds, such amount or amounts which, after deduction of all taxes required to be paid by the Owner in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority of the United States, shall be equal to the sum of the aggregate additional Federal, state or local income taxes payable by the Owner from time to time as a result of such Capital Expenditure plus the amount of any interest, penalties or additions to tax payable as a result of any such Capital Expenditure (less any Federal, state or local tax benefits resulting from payment of any amounts reimbursed hereunder). If as a result of any such Capital Expenditure the aggregate Federal, state or local income taxes paid by the Owner for any taxable year shall be less than the amount of such taxes which would have been payable by the Owner had no such Capital Expenditure been made, then the Owner shall pay the Lessee the amount of such savings in taxes plus any additional tax benefits realized by the Owner as a result of such payment; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Owner pursuant to this paragraph in respect of any Capital Expenditures less (y) the amount of all prior payments by the Owner to the Lessee hereunder, and the amount by which such payment would exceed such amount shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Owner pursuant to the first sentence of this paragraph. The amount payable to the Owner pursuant to this paragraph shall be paid within 30 days after receipt of the written demand therefor from the Owner (but not prior to payment by the Owner of the additional Federal, state or local income tax, as the case may be, which becomes due as a result of the said inclusion) accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Lessee from the Owner pursuant to this paragraph shall be paid within 30 days after the Owner realizes any such savings in its income taxes or additional tax benefits, as the case may be. The Owner agrees to contest the inclusion in its gross income of any amount with respect to a Capital Expenditure to the extent, and under the circumstances, set forth in the ninth and tenth paragraphs of this § 23.

The Lessee agrees to give the Owner, within 30 days after request therefor, written notice describing in reasonable detail Capital Expenditures made and specifying the cost thereof with respect to each Unit of Equipment if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner.

In the event that any indemnity payments are required to be made by the Lessee, or in the event the amount of rentals under this Lease are adjusted, pursuant to any paragraph of this § 23, the damages and amounts set forth in § 10 of this Lease and the applicable Casualty Value percentages set forth in Schedule B to this Lease shall be appropriately adjusted by the Owner (but in no event shall the applicable Casualty Values be reduced below the corresponding Fair Values as defined in the Security Document). The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions, including, without limitation, tax rates, as were utilized by the Owner in originally evaluating this transaction except for the assumption that has resulted in such adjustment. In connection therewith, the Owner shall provide the Lessee with a certificate of an officer of the Owner setting forth in reasonable detail the figures and methods used in making such calculations. In the case of any such adjustments in the damages and amounts set forth in § 10 of this Lease and the applicable Casualty Value percentages set forth in Schedule B to this Lease, if any payment of such damages, amounts or Casualty Values shall have been made prior to the adjustments made pursuant to this paragraph, (a) the Lessee shall pay to the Owner the excess amount which would have been payable on the due date of such payment by reason of the adjustments pursuant to this paragraph or (b) the Owner shall pay to the Lessee the amount of such payments in excess of the amount of such payments which would have been payable by reason of the adjustments pursuant to this paragraph. The Lessee's and the Owner's agreements to pay any sums which may become payable pursuant to this § 23 shall survive the expiration or other termination of this Lease.

The Lessee shall have the right, upon demand, to have Thayer, Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, or another independent party selected by the Lessee and approved by the Owner, which approval shall not be unreasonably withheld, review any calculations made by the Owner pursuant to this § 23 to

determine the consistency of the methods and the assumptions used in such calculations with those used by the Owner in originally evaluating this transaction and the accuracy of such computations based on such methods and assumptions.

The liability of the Lessee to make indemnification payments pursuant to this § 23 shall, notwithstanding any expiration or termination of this Lease, continue to exist until such indemnity payments are made by the Lessee. All indemnity payments under this § 23 shall be made directly to the Owner.

§ 24. Severability; Effect and Modification of Lease; Third Party Beneficiaries. 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.

This Lease exclusively and completely states the rights of the Owner-Trustee and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement. 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 Owner-Trustee and the Lessee.

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Owner, the Builder, the Vendor, the Investors and the permitted successors and assigns of a party, each of which shall be deemed to be a third-party beneficiary hereof) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

§ 25. 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 Vendor shall be deemed to be the original counterpart. 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.

§ 26. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Ohio; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 27. Agreement for Benefit of the Owner. All rights of the Owner-Trustee hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 10 and 23, and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Owner and any of the Owner's successors and assigns under the Trust Agreement.

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

GAMS TRANSPORTATION, INC.,

by _____

[CORPORATE SEAL]

Attest:

_____

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by _____
Authorized Officer

[CORPORATE SEAL]

Attest:

_____
Authorized Officer

STATE OF CALIFORNIA,)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is of GAMS TRANSPORTATION, INC., 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.

_____
Notary Public

[Notarial Seal]

My Commission Expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, 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 By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

_____
Notary Public

[Notarial Seal]

My Commission Expires

Schedule A

Type	Builder's Specification	Builder's Plant	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Road Numbers (Inclusive)	Estimated Time of Delivery
50-foot, 6-inch 70-ton, Class XF boxcar	No. 1042, dated March 29, 1979, as amended	Bessemer, Alabama	308	$40,900	$12,597,200	ROCK 302042 through ROCK 302249 W&OV 1 through W&OV 100	July-August 1979

Place of delivery: Bessemer, Alabama

SCHEDULE B to LEASE

Casualty Values*

Item I:

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**		Percentage of Purchase Price
4/1980	1	85.23	1/1990	40	67.11
7/1980	2	85.76	4/1990	41	65.98
10/1980	3	86.20	7/1990	42	64.82
1/1981	4	86.49	10/1990	43	63.65
4/1981	5	86.79	1/1991	44	62.45
7/1981	6	87.07	4/1991	45	61.25
10/1981	7	87.28	7/1991	46	60.01
1/1982	8	87.44	10/1991	47	58.75
4/1982	9	87.51	1/1992	48	57.48
7/1982	10	87.56	4/1992	49	56.21
10/1982	11	87.42	7/1992	50	54.90
1/1983	12	87.35	10/1992	51	53.59
4/1983	13	87.23	1/1993	52	52.26
7/1983	14	87.08	4/1993	53	50.93
10/1983	15	86.83	7/1993	54	49.58
1/1984	16	86.51	10/1993	55	48.23
4/1984	17	86.24	1/1994	56	46.87
7/1984	18	85.90	4/1994	57	45.50
10/1984	19	85.48	7/1994	58	44.14
1/1985	20	84.98	10/1994	59	42.76
4/1985	21	84.47	1/1995	60	41.39
7/1985	22	83.93	4/1995	61	40.01
10/1985	23	83.30	7/1995	62	38.63
1/1986	24	82.61	10/1995	63	37.25
4/1986	25	81.90	1/1996	64	35.87
7/1986	26	81.27	4/1996	65	34.49
10/1986	27	80.49	7/1996	66	33.11
1/1987	28	79.15	10/1996	67	31.73
4/1987	29	78.06	1/1997	68	30.35
7/1987	30	77.21	4/1997	69	28.98
10/1987	31	76.32	7/1997	70	28.62
1/1988	32	75.40	10/1997	71	28.25
4/1988	33	74.45	1/1998	72	27.87
7/1988	34	73.48	4/1998	73	27.48
10/1988	35	72.48	7/1998	74	27.09
1/1989	36	71.45	10/1998	75	26.69
4/1989	37	70.40	1/1999	76	26.27
7/1989	38	69.32	4/1999	77	25.85
10/1989	39	68.23	7/1999	78	25.42

* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

Casualty Values*

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**	Percentage of Purchase Price
10/1999	79	24.98		
1/2000	80	24.53		
4/2000	81	24.07		
7/2000	82	23.60		
10/2000	83	23.12		
1/2001	84	22.63		
4/2001	85	22.13		
7/2001	86	21.61		
10/2001	87	21.09		
1/2002	88	20.55		
4/2002 and thereafter	89	20.00		

Item II:	Anniversary of Delivery and Acceptance	Percentage of Purchase Price
	Third	19.64444
	Fifth	13.09630
	Seventh	6.54815

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* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

Appendix A to
Lease

SUBLEASE OF RAILROAD EQUIPMENT

Dated as of July 20, 1979

between

WILLIAM M. GIBBONS,
TRUSTEE OF THE PROPERTY OF
CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY,

as Sublessee

and

GAMS TRANSPORTATION, INC.,

as Sublessor

TABLE OF CONTENTS

		Page
PREAMBLE	.....	SL-1
§ 1.	Net Lease	SL-2
§ 2.	Delivery and Acceptance of Units	SL-3
§ 3.	Rentals	SL-4
§ 4.	Term of Sublease	SL-5
§ 5.	Identification Marks	SL-7
§ 6.	Taxes	SL-8
§ 7.	Payment for Casualty Occurrences; Insurance	SL-12
§ 8.	Reports	SL-15
§ 9.	Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification	SL-16
§ 10.	Default	SL-22
§ 11.	Return of Units Upon Default	SL-28
§ 12.	Assignment; Possession and Use	SL-29
§ 13.	Renewal Options	SL-32
§ 14.	Return of Units Upon Expiration of Term	SL-33
§ 15.	Recording	SL-36
§ 16.	Obligations of Owner-Trustee Under Security Document; Additional Rentals	SL-36
§ 17.	Sublessor's Right To Perform for the Sublessee	SL-37

		Page
§ 18.	Interest on Overdue Rentals	SL-37
§ 19.	Notices	SL-37
§ 20.	Federal Income Taxes	SL-38
§ 21.	Severability; Effect and Modification of Sublease; Third Party Beneficiaries	SL-48
§ 22.	Other Obligations	SL-48
§ 23.	Execution	SL-50
§ 24.	Law Governing	SL-50
TESTIMONIUM		SL-50
SIGNATURES		SL-50
ACKNOWLEDGMENTS		SL-51
SCHEDULE A		SL-52
SCHEDULE B		SL-53

SUBLEASE OF RAILROAD EQUIPMENT dated as of July 20, 1979, between WILLIAM M. GIBBONS, TRUSTEE OF THE PROPERTY OF CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY (such company being hereinafter called the Debtor and such Trustee being hereinafter called the Sublessee) and GAMS TRANSPORTATION, INC., an Ohio corporation (hereinafter called the Sublessor).

On March 17, 1975, the Debtor filed a petition for reorganization under Section 77 of the Bankruptcy Act in the United States District Court for the Northern District of Illinois (hereinafter called the Court) and such petition was duly approved as properly filed by order entered on such date by such Court (the proceedings with respect thereto being hereinafter called the Reorganization Proceedings) and William M. Gibbons was duly qualified as Trustee of the property of the Debtor on April 4, 1975.

First Security State Bank, acting not in its individual capacity but solely as Trustee (hereinafter called the Owner-Trustee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement), with General Electric Credit Corporation (hereinafter called the Owner) has entered or will enter into a conditional sale agreement (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), pursuant to which the Owner-Trustee has agreed to purchase and take delivery of the railroad equipment described in Schedule A hereto (hereinafter called the Equipment).

The Builder is assigning its interests in the Security Document pursuant to an Agreement and Assignment, dated as of the date hereof (hereinafter called the Assignment), to First Security Bank of Utah, N.A., acting as Agent (hereinafter together with its successors and assigns called the Vendor), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Sublessor, the Sublessee, the Owner-Trustee, the Owner and the party or parties named in Schedule A thereto (hereinafter called the Investors).

The Sublessor will lease from the Owner-Trustee units of the Equipment which are delivered and accepted and settled for under the Security Document (hereinafter called the Units), pursuant to a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), and the Sublessor desires to sublease the Units to the Sublessee at the rentals and for the term and upon the conditions hereinafter provided.

The Sublessor intends to assign certain of its rights under this Sublease to the Owner-Trustee pursuant to an Assignment of Sublease and Agreement, dated as of the date hereof (hereinafter called the Sublease Assignment), and the Sublessee will consent to the Sublease Assignment pursuant to a Sublessee's Consent and Agreement (hereinafter called the Sublessee's Consent).

The Owner-Trustee intends to assign certain of its rights under the Sublease and the Sublease Assignment to the Vendor pursuant to an Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement dated as of the date hereof (hereinafter called the Sublease Reassignment), and the Sublessee will consent to such Sublease Reassignment pursuant to a Consent and Agreement (such Consent, together with the Sublessee's Consent, being hereinafter collectively called the Consents).

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

§ 1. Net Lease. This Sublease is a net lease. The Sublessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein provided, the Sublessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions, counterclaims or setoffs due or alleged to be due by reason of any past, present or future claims of the Sublessee against the Sublessor, the Owner-Trustee or the Owner, whether under this Sublease, under the Security Document, under the Lease or otherwise, including the Sublessee's rights by subrogation hereunder or thereunder against the

Builder or the Owner-Trustee or the Sublessor or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Sublease terminate, or the respective obligations of the Sublessor or the Sublessee 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 Sublessee'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 or approval of this Sublease, any present or future insolvency of or bankruptcy, reorganization or similar proceeding against the Sublessee, 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 Sublessee 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 Sublease. To the extent permitted by applicable law, the Sublessee 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 sublease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Sublessee hereunder shall be final and the Sublessee shall not seek to recover all or any part of such payment from the Sublessor, the Owner-Trustee, the Owner or the Vendor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Sublessor hereby appoints the Sublessee its agent for inspection and acceptance of the Units pursuant to the Security Document; provided, however, that such acceptance shall be in accordance with the provisions of Article 3 of the Security Document. The Sublessor will cause each Unit to be delivered to the Sublessee at the point or points within the United States of America at which such Unit is delivered to the Sublessor under the Lease. Upon delivery of such Unit, the Sublessee will cause an employee or agent of the Sublessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such unit on behalf of the Owner-Trustee under the Security Document, the Sublessor under the Lease and itself hereunder and to execute and deliver to the

Owner-Trustee a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Document, stating that such Unit has been inspected and accepted on behalf of the Sublessee, the Sublessor and the Owner-Trustee on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Sublessee and shall be subject thereafter to all the terms and conditions of this Sublease. The delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the Security Document pursuant to the second paragraph of Article 3 or the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such unit to this Sublease. The Sublessee hereby represents and warrants to the Sublessor and the Owner-Trustee, as a third party beneficiary hereof, that no Unit shall be put into service earlier than the date of delivery to and acceptance by the Sublessee as agent for the Sublessor hereunder.

§ 3. Rentals. With respect to each Unit subject to this Sublease, the Sublessee will pay to the Sublessor as (i) basic rentals 60 consecutive equal quarterly payments, payable on January 15, April 15, July 15 and October 15 in each year, commencing July 15, 1980, and (ii) interim rental two payments on January 15, 1980, and April 15, 1980. The 60 quarterly rental payments shall each be in an amount equal to 2.6651% of the Purchase Price (as defined in the Security Document) of each Unit subject to this Sublease on the date of such payment. The interim rental shall be in an amount equal to the product of the Purchase Price of each Unit subject to this Sublease on the date of payment multiplied by .029503% for each day elapsed from and including the Closing Date (as defined in the Security Document) for such Unit to, but excluding April 15, 1980, and shall be payable to the extent accrued on each interim rental payment date.

In addition to the foregoing basic rentals, the Sublessee will pay to the Sublessor the following additional rentals: (i) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (a) of the last paragraph of Paragraph 9 of the Participation Agreement and (ii) an amount equal to any amount required to be paid by the Owner-Trustee pursuant to clause (b) of the last para-

graph of Paragraph 9 of the Participation Agreement, in each case on such date as will enable the Owner-Trustee to make such payment.

If any of the quarterly rental payment dates referred to above is not a Business Day (as such term is defined in the Security Document) the quarterly rental payment otherwise payable on such date shall then be payable on the next succeeding Business Day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next succeeding Business Day.

The Sublessor irrevocably instructs the Sublessee to make, and the Sublessee agrees to make, all the payments (other than payments under § 6 and § 20 hereof) due the Sublessor provided for in this Sublease including, but not limited to, all payments provided for in this § 3 and in § 7 hereof, (i) for so long as the Security Document shall remain in effect, to the Vendor, for the account of the Owner-Trustee, in immediately available funds at or prior to 11 a.m. (Salt Lake City time) to the office of the Vendor (at 79 South Main Street, Suite 310, Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department) on the date due, with instructions to the Vendor to apply such payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement, and (ii) if the Security Document shall no longer be in effect, to the Owner-Trustee or as directed by the Owner-Trustee in immediately available funds at such place as the Owner-Trustee shall specify in writing.

§ 4. Term of Sublease. The term of this Sublease 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 April 15, 1995. Except for obligations of the Sublessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Sublessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9, 11, 14, 19 and 20 hereof) shall survive the expiration of the term of this Sublease.

Anything in this Sublease to the contrary notwithstanding, the term of this Sublease shall terminate on the date (i) the Court finds that the Sublessee is unable to

transport the traffic offered the Sublessee because the Sublessee's cash position or other facts make the Sublessee's continuing operation of the Debtor impossible and orders the Sublessee to discontinue service and/or liquidate the assets of the Debtor or (ii) this Sublease is disaffirmed or rejected pursuant to a plan of reorganization confirmed in the Reorganization Proceedings and in such event the obligation to pay rental referred to in the first paragraph of § 3 accruing subsequent to the date that the Sublessee returns the Equipment to the Sublessor in the manner contemplated by § 14 hereof shall terminate and the Sublessor shall have no claim against the Sublessee, the Debtor or the Successor (as defined in § 10 hereof) for such unaccrued rental.

The obligation of the Sublessee to pay any and all sums:

(x) due and owing under this Sublease, including without limitation accrued rental referred to in the first paragraph of § 3, prior to the date of return of the Equipment to the Sublessor as herein provided for; and

(y) which may become due and owing subsequent to the date of return of the Equipment to the Sublessor as a result of acts or omissions of the Sublessee occurring prior to such date,

shall continue in full force and effect notwithstanding termination of the Sublease and the immediately preceding paragraph.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Sublessee under this Sublease and in and to the Units are subject to the rights of the Vendor under the Security Document and the Owner-Trustee under the Lease. If an Event of Default should occur under § 10 of the Lease, upon notice by the Owner-Trustee or the Vendor to the Sublessor and Sublessee, the participation of the Sublessor under this Sublease shall, without the consent of the Sublessor or the Sublessee and immediately and automatically and without any further action, be terminated, and the Owner-Trustee without its further consent and immediately and automatically and without any further action shall become the Sublessor under this Sublease;

and the Sublessor hereby agrees and acknowledges that in such event it shall no longer be a party to this Sublease and that it would no longer have any claim whatsoever to any rental payments paid to the Vendor pursuant to § 3 hereof subsequent to such event. If an event of default should occur under the Security Document as provided in § 10(E) hereof, the Vendor may terminate this Sublease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Sublessee will cause 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 Sublease 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 WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Owner-Trustee's title to and the Vendor's security interest in such Unit and the rights of the Sublessor under this Sublease, of the Owner-Trustee under the Lease and of the Vendor under the Security Document. The Sublessee will not place or permit any such Unit to be placed 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 or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Sublessee will not change or permit to be changed 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 Vendor, the Owner-Trustee and the Sublessor and duly filed, recorded and deposited by the Sublessee in all public offices where this Sublease, the Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Sublessee shall have furnished the Vendor, the Owner-Trustee and the Sublessor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's, the Owner-Trustee's and the Sublessor's interests in such Units and no filing, recording, deposit or giving of

notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor, the Owner-Trustee and the Sublessor in such Units.

Except as above provided, the Sublessee 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; provided, however, that the Sublessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Sublessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of its rights to use the Equipment under this Sublease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Sublessee therein.

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Sublessee agrees to pay, and on written demand to indemnify and hold the Sublessor, the Owner-Trustee, the Owner, the Builder, the Vendor, the Investors and the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under the Security Document and the Participation Agreement harmless from all taxes (income, gross receipts, franchise, sales, use, property (real or personal, tangible or intangible), stamp and minimum (imposed under section 56 of the Internal Revenue Code of 1954, as amended) taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Sublessor, the Owner-Trustee, the Owner, the Vendor, the Builder, the Investors, the Sublessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under the Security Document and the Participation Agreement, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; this Sublease, the Lease, the Sublease Assignment, the Sublessee's Consent, the Sublease Reassignment, the Consents, the Trust

Agreement, the Participation Agreement (including the certificates of interest and the issuance thereof to the Investors pursuant thereto), the Security Document, the Bond (as defined in the Lease), the Assumption Agreement (as so defined) or the Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Security Document and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States or of any state or local government or governmental subdivision thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Sublessor, the Owner-Trustee (in its individual capacity), the Owner, the Investors, the Builder or the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Sublease or the Lease, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Sublease or the Lease shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Owner or any transfer or disposition by or on behalf of the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Sublease or the Lease, without the consent of the Sublessee, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence or an Event of Default shall have occurred and be continuing; (iii) any Taxes imposed on or measured by any trustee or agency fees received by the Owner-Trustee or the Vendor; and (iv) Taxes which are imposed on or measured solely by the net income of the Owner-Trustee or the Vendor if and to the extent that such Taxes are in substitution for

or reduce the Taxes payable by any other person which the Sublessee has not agreed to pay or indemnify against pursuant to this § 6; provided, however, that the Sublessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the fourth paragraph of this § 6. The Sublessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Sublessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Sublessee is a member) under the laws of the United States or of any state or local government or governmental subdivision thereof, or of any foreign country or subdivision or authority thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Sublessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

The amount which the Sublessee shall be required to pay with respect to any Taxes indemnified against pursuant to this § 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

In the event that the Owner-Trustee shall become obligated to make any payment to the Builder, the Investors, the Vendor or the estate held by the Vendor under the Security Document and the Participation Agreement pursuant to Article 6 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, or the Sublessor shall become obligated to make any payment to the Vendor, the Builder, the Investors, or the estate held by the Owner-Trustee under the Trust Agreement and by the Vendor under the Participation Agreement and the Security Document pursuant to any correlative provision of the Lease not covered by the first paragraph of this § 6, the Sublessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Owner-Trustee or the Owner or the Sublessor as will enable the Owner-Trustee or the Owner or the Sublessor to fulfill completely its obligations pursuant to said provisions. The Sublessor agrees not to enter into any amendment of the Lease which would adversely affect the interest of the Sublessee under this Sublease without the written consent of the Sublessee.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Sublessee. If reasonably requested by the Sublessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Sublessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Sublessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party which consent shall not be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Sublessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Sublessee and the period of such payment, such indemnified party shall pay to the Sublessee the amount of such refund or interest net of expenses, but only if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing.

In case any report or return is required to be made with respect to any obligation of the Sublessee under this § 6 or arising out of this § 6, except obligations resulting from the second sentence of the first paragraph of this § 6, the Sublessee shall either make such report or return in such manner as will show the interests of the Owner-Trustee, the Vendor and the Sublessor in the Units, or shall promptly notify the Sublessor, the Owner-Trustee, the Owner and the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Sublessor, the Owner-Trustee, the Vendor and the Owner. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Sublessee.

All the obligations of the Sublessee under this § 6 shall survive and continue, notwithstanding payment in full of all amounts due under the Security Document or the termination of this Sublease or the Lease, but only with respect to periods included in the term of this Sublease. Payments due from the Sublessee under this § 6 shall be payable directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Sublessee shall not constitute a guarantee by the Sublessee of the payment of any installments of principal or interest payable under the Security Document, or a guarantee of the value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

The Sublessee shall furnish promptly, upon request, such information and data as are normally available to the Sublessee and which the Sublessor, the Owner-Trustee, the Vendor or the Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§ 7. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Sublessee for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Sublease (such occurrences being hereinafter called Casualty Occurrences), during the term of this Sublease, or until such Unit shall have been returned in the manner provided in § 11 or 14 hereof, the Sublessee shall promptly and fully notify (after the Sublessee has knowledge of such Casualty Occurrence) the Sublessor, the Owner-Trustee and the Vendor with respect thereto. On the rental payment date (not earlier than the first regular quarterly rental payment date) next succeeding the delivery of such notice (or, in the event such rental payment date will occur within 15 days after delivery of notice, on the following rental payment date, or, in the event the term of this Sublease has already expired or will expire within 15 days after delivery of such notice, on a date within 15 days of such delivery), the Sublessee shall pay or cause to be paid to the Sublessor 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 of such Unit as of such rental payment date (such ren-

tal payment date being hereinafter called the Calculation Date). Upon the making of such payment by the Sublessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Sublease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Sublessor shall be entitled to recover possession of such Unit.

If the date upon which the making of such payment by the Sublessee in respect of any Unit as required as aforesaid shall be after the term of this Sublease in respect of such Unit shall have expired, no rental for such Unit shall accrue after the end of such term but the Sublessee, in addition to paying the Casualty Value for such Unit shall pay interest thereon from the end of such term to the date of such payment at the greater of (i) the prime rate of interest which Manufacturers Hanover Trust Company charges on the date of such payment for 90-day unsecured loans to large corporate borrowers of the highest credit standing and (ii) 10.75% per annum.

The Sublessor, as agent for the Owner-Trustee under the Lease, shall dispose of any such Unit suffering a Casualty Occurrence at the best price obtainable on an "as is, where is" basis. Provided that the Sublessee has previously paid the Casualty Value to the Sublessor and no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Sublessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and the Sublessor shall pay such proceeds to the Sublessee, and the excess shall be retained by the Sublessor. If such an Event of Default or event has occurred and is continuing, the Sublessor shall retain the proceeds of such sale for application in accordance with § 10 hereof.

The Casualty Value of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in § 20 hereof). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the

Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

In the event of the requisition for use of any Unit during the term of this Sublease or any renewal thereof, unless such requisition shall constitute a Casualty Occurrence, all of the Sublessee's obligations under this Sublease 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 at any time after the end of the term of this Sublease, the Sublessee shall be obligated to return such Unit to the Sublessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return rather than at the end of the term of this Sublease; but the Sublessee 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 Sublessor or the Sublessee from the requisitioning authority for the use of such Unit during the term of this Sublease shall be paid over to, or retained by, the Sublessee provided no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing; and all payments received by the Sublessor or the Sublessee from the requisitioning authority for the use of such Unit after the term of this Sublease, shall be paid over to, or retained by, the Sublessor.

Except as hereinabove in this § 7 provided, the Sublessee 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 Sublessee hereunder.

The Sublessee will, at all times prior to the return of the Equipment to the Sublessor in accordance with the terms of this Sublease (including the storage period provided under §§ 11 and 14), maintain or cause to be maintained, at its own expense, property and casualty insurance in respect of the Units at the time subject hereto, 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 Sublessee on similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $10,000,000 (with a deductible of not greater than $1,000,000)

per occurrence. The proceeds of such insurance shall be payable to the Vendor, the Owner-Trustee, the Surety, the Sublessor and the Sublessee as their respective interests may appear.

The Sublessee will, at all times prior to the return of the Equipment to the Sublessor in accordance with the terms of this Sublease, at its own expense, cause to be carried and maintained public liability insurance, naming the Owner, the Owner-Trustee, the Surety, the Sublessor and the Vendor as additional named insureds as their interests may appear, 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 Sublessee in respect of similar equipment owned by it; provided, however, that, subject to availability, the amount of such coverage shall not, at any time, be less than $29,000,000 (with a deductible of not greater than $2,000,000) per occurrence. Any policy of insurance carried in accordance with this paragraph shall not provide for any payment of premiums or commissions by the Owner, the Owner-Trustee or the Vendor.

The Sublessee shall obtain from each insurer under the two paragraphs immediately above an agreement, by endorsement or separate instrument, that such insurer will give the Sublessor, the Surety, the Owner-Trustee, the Owner and the Vendor 30 days' written notice before such insurer's policy shall be materially altered or canceled or not renewed. In January of each year, the Sublessee shall deliver to the Surety, the Owner-Trustee, the Owner, the Sublessor and the Vendor a certificate of insurance by or on behalf of each insurer stating the coverage, named insureds and limits of each such policy.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1980, the Sublessee will furnish to the Sublessor, the Owner-Trustee, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then subleased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Sublease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Sublessee are then undergoing repairs (other than run-

ning repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Sublessor, the Owner-Trustee or the Vendor may reasonably request prepared by an independent qualified engineer who may be the chief mechanical officer of the Sublessee or any other employee of the Sublessee and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof, the Lease and the Security Document have been preserved or replaced. The Sublessor and the Owner-Trustee shall have the right by their respective agents to inspect the Units and the Sublessee's records with respect thereto at such reasonable times as the Sublessor or the Owner-Trustee may request during the continuance of this Sublease.

The Sublessee agrees at its expense to prepare and deliver to the Sublessor and the Owner-Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Sublessor and the Owner-Trustee) any and all reports (other than income tax returns) to be filed by the Sublessor and the Owner-Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Owner-Trustee or the Vendor of the Units or the leasing thereof to the Sublessor or the subleasing thereof to the Sublessee.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE SUBLESSOR DOES NOT MAKE ANY, HAS NOT MADE ANY AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE SUBLESSEE HEREUNDER, AND THE SUBLESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF 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 OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE SUBLESSEE OR OTHERWISE), it being agreed that all such risks, as between the Sublessor and the Sublessee, are to be borne by the Sublessee; but the Sublessor hereby irrevocably appoints and constitutes the Sublessee its agent and attorney-in-fact during the term of this Sublease to assert and enforce from time to time, in the

name of and for the account of the Owner-Trustee, the Sublessor and/or the Sublessee, as their interests may appear, at the Sublessee's sole cost and expense, whatever claims and rights the Owner-Trustee or the Sublessor may have against the Builder. The Sublessor shall have no responsibility or liability to the Sublessee 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 circumstance 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 Sublessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Sublessee, on the one hand, and the Sublessor and the Owner-Trustee, on the other hand, that the Units described therein are in all the foregoing respects satisfactory to the Sublessee; and the Sublessee will not assert any claim of any nature whatsoever against the Sublessor, the Owner-Trustee or the Owner based on any of the foregoing matters.

The Sublessee agrees, for the benefit of the Sublessor, the Owner-Trustee, the Owner and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Sublessee will fully conform therewith at its own expense; provided, however, that the Sublessee may upon written notice to the Sublessor, the Owner-Trustee and the Vendor, 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 Sublessor, the Owner-Trustee or the Vendor, adversely affect the property or rights of the Sublessor, the Owner-Trustee or

the Vendor, respectively, under this Sublease or under the Lease or under the Security Document.

The Sublessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an Addition thereto as hereinbelow provided) which is subject to this Sublease in good operating order, repair and condition, ordinary wear and tear excepted, and, in any event, in the condition that will permit such Unit to qualify as a box car of "XF Class", as defined, as of July 20, 1979, by the Association of American Railroads; provided, however, that the Sublessee shall not be required to keep any Unit in actual "XF" service.

The Sublessee and its affiliates, at their own cost and expense, may from time to time make such alterations, modifications and additions (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the United States Department of Transportation, the Interstate Commerce Commission or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit) (hereinafter collectively called Additions) to the Units as the Sublessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Sublease; provided, however, that no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such addition not been made, assuming the Unit was then in the condition required to be maintained by the terms of this Sublease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Owner-Trustee and be subject to a valid first lien and prior perfected security interest under the Security Document in the following cases: (i) such Part

is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for any such original Part, (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the terms of the second or third paragraph of this § 9 or (iii) notwithstanding the provisions of the fourth paragraph of this § 9, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Sublessee. The term Part for the purposes of this paragraph and § 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

The Sublessee shall pay, and shall protect, indemnify and hold the Sublessor, the Owner-Trustee, the Owner, the Investors and the Vendor (for purposes of this paragraph only, as defined in the Security Document), and their respective successors, assigns, principals, agents and servants (hereinafter called Indemnified Persons), as third party beneficiaries hereof, 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 reasonable attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Sublease 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, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Sublessee; (iii) any claim for patent, trademark or copyright infringe-

ment; (iv) any claims based on strict liability in tort or imposed by statute; (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 Sublessee, the Owner-Trustee, the Sublessor or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder) or alleged violation, of any provision of this Sublease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Owner-Trustee's obligations under the Sublease Reassignment, the Security Document or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Owner-Trustee, or any claim arising out of any of the Sublessor's obligations under the Sublease Assignment, the Lease or the Participation Agreement, except to the extent such claim arises from an act or omission of the Sublessor; or (viii) any claim arising out of the Vendor's holding a security interest under the Security Document or the Sublease Reassignment; excluding, however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant under the Security Document by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A to the Security Document. All payments hereunder shall be made directly to the Indemnified Person. The Sublessee 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 Sublessee 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 Sublessee may and, upon such Indemnified Person's reasonable request, will at the Sublessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel

selected by the Sublessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Sublessee to do so, the Sublessee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Sublessee is required to make any payment under this § 9, the Sublessee shall pay or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the discretion of the Indemnified Person), shall be equal to the amount of such payment. The Sublessee and the Sublessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any indemnities as contained in this § 9 by the Sublessee, and provided that no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Sublessee 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 Sublessee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Sublessee pursuant to this § 9 shall be paid over to the Sublessee to the extent necessary to reimburse the Sublessee for indemnification payments previously made in respect of such matter.

The Sublessee further agrees to indemnify, protect and hold harmless the Sublessor and the Owner-Trustee, the Investors, the Vendor and the Owner, as third party beneficiaries hereof, from and against any and all liabilities, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Sublessor or the Owner-Trustee, the Investors, the Vendor or the Owner because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Sublessee and not manufactured by the Builder or of any design, system, pro-

cess, formula or combination specified by the Sublessee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Sublessee will give notice to the Builder of any claim known to the Sublessee from which liability may be charged against the Builder under the Security Document.

In the event that the Owner-Trustee shall become obligated to make any payment to the Investors or the Vendor (for purposes of this paragraph only, as defined in the Security Document) pursuant to Article 13 of the Security Document, or the Owner shall become obligated to make any payment to the Owner-Trustee pursuant to any correlative provision of the Trust Agreement, or the Sublessor shall become obligated to make any payment to the Vendor, the Investors or the estate held by the Owner-Trustee under the Trust Agreement or by the Vendor under the Participation Agreement and the Security Document pursuant to any correlative provision of the Lease not covered by the foregoing provisions of this § 9, the Sublessee shall pay such additional amounts to the Owner-Trustee or the Owner or the Sublessor as will enable the Owner-Trustee or the Owner or the Sublessor to fulfill completely its obligations pursuant to said provisions; provided, however, that no such payment shall be required with respect to payments arising as a result of the gross negligence or wilful misconduct of the Owner-Trustee, the Sublessor or the Owner.

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

The foregoing indemnities by the Sublessee shall not constitute a guarantee by the Sublessee of any payment or other obligation, including without limitation the payment of any installments of principal or interest, under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term thereof as such term may or may not be renewed.

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

(A) payment of any part of the rental provided in § 3 or § 13 hereof or payment in respect of any Casualty Occurrence pursuant to § 7 hereof shall not be made by or on behalf of the Sublessee, and such failure to make payment shall continue for 10 business days after such payment is due; or

(B) (x) any representation or warranty of the Sublessee contained in the Participation Agreement or herein (except the representations and warranties contained in § 20 hereof) shall have been incorrect in any material respect as of the date when made, unless (i) such misrepresentation or the breach of such warranty has been cured, if curable, within 30 days after written notice thereof to the Sublessee from the Sublessor, the Owner-Trustee, the Owner or the Vendor, or (ii) there is no material adverse effect on the rights of the Sublessor, the Owner-Trustee or the Vendor hereunder resulting from such misrepresentation or breach or (iii) any damages resulting from such misrepresentation or breach shall have been paid within 30 days after demand therefore, to the satisfaction of the Sublessor, the Owner-Trustee, the Owner and the Vendor, or (y) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Sublessee contained herein or in the Participation Agreement, and such default shall continue for 30 days after written notice from the Sublessor, the Owner-Trustee or the Vendor to the Sublessee specifying the default and demanding that the same be remedied; or

(C) a decree or order is entered in the Reorganization Proceedings preventing or disabling the Sublessee from performing any of its obligations under this Sublease other than a decree, order, disaffirmance or rejection as provided for in the second paragraph of § 4 hereof; or

(D) if the obligations of the Trustee or his successor or successors hereunder are assumed by a corporation or by the Debtor's successor pursuant to a

plan of reorganization for the Debtor approved in the Reorganization Proceedings (such corporation or successor being hereinafter called the Successor) and either

(i) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as such Section 77 may hereafter be amended, or under any other provision of Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Successor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the assumed obligations of the Successor under this Sublease and under the Participation Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by or on behalf of a trustee or trustees or other similar officer appointed (whether or not subject to confirmation or ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or officer, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(ii) any proceedings shall be commenced by or against the Successor for any relief which includes, or might result in, any modification of the assumed obligations of the Successor under this Sublease or under the Participation Agreement under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustments of the assumed obligations of the Successor hereunder or under the Participation Agreement), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the assumed obligations of the Successor under this Sublease and under the Participation Agreement shall not have been and shall not continue to have been duly assumed in

writing, pursuant to a court order or decree, by or on behalf of a trustee or trustees or receiver or receivers or other similar officer appointed (whether or not subject to confirmation or ratification) for the Successor or for the property of the Successor 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 or officers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(E) an event of default set forth in subparagraph (e) with respect to Great American Insurance Company, or in subparagraph (g), of Article 15 of the Security Document shall have occurred or, any other event of default set forth in such Article 15 shall have occurred and either (i) such event results from any default by the Sublessee in performing any of its obligations hereunder or under the Participation Agreement or (ii) the Payments (as defined in the Sublease Reassignment) are not for any reason being applied by the Owner-Trustee as provided in Paragraph 1 of the Sublease Reassignment;

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

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

(b) by notice in writing to the Sublessee terminate this Sublease, whereupon all rights of the Sublessee to the use of the Units shall absolutely cease and terminate as though this Sublease had never been made, but the Sublessee shall remain liable as herein provided; and thereupon the Sublessor may by its agents enter upon the premises of the Sublessee or other premises where any of the Units may be and take possession of all or any such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Sublessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Sublessee for such action or inaction or for any proceeds arising therefrom; but the

Sublessor shall, nevertheless, have a right to recover from the Sublessee any and all amounts which under the terms of this Sublease 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 Sublessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Sublessor, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) 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 Sublease as to such Unit over (2) the then present value of the rentals which the Sublessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 8% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Sublease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Sublessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Sublease other than for the payment of the rental; or (y) an amount 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 amount the Sublessor reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Sublessor shall have sold or leased any Unit, the Sublessor, in lieu of collecting any amounts payable to the Sublessor by the Sublessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Sublessee pay the Sublessor and the Sublessee shall pay to the Sublessor on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such a sale, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding

the date of termination, over the net proceeds of such sale and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Sublease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Sublessor reasonably estimates to be obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Sublease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 8% per annum discount, compounded, in the case of rental which is estimated under clause (II) of this sentence, quarter-annually from the respective dates upon which rentals would have been payable hereunder had this Sublease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

In addition, the Sublessee 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 Sublessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Sublease provided in favor of the Sublessor 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 Sublessee hereby waives any 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 Sublessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make such rental payments regardless of any offset or claim which may be asserted by the Sublessee or on its behalf.

The failure of the Sublessor to exercise the rights granted it hereunder upon the occurrence of any of the con-

tingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Sublessor.

The Sublessee also agrees to furnish the Sublessor, the Owner-Trustee, the Owner and the Vendor, promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default, or which upon 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 § 10, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Sublessee in this Sublease contained, any corporate official of the Sublessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter and the requirements of this Sublease with respect thereto.

§ 11. Return of Units Upon Default. If this Sublease shall terminate pursuant to § 10 hereof, the Sublessee shall forthwith deliver possession of the Units to the Sublessor and shall give prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Sublessor pursuant to this § 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Sublessee, reasonable wear and tear and modifications, if any, permitted by this Sublease excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any Unit or Units to the Sublessor as above required, the Sublessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Sublessor and there assembled,

(b) furnish and arrange for the Sublessor to store such Units on any lines of railroad or premises approved by the Sublessor until such Units have been sold, leased

or otherwise disposed of by the Sublessor, and

(c) cause the Units to be moved to such interchange point or points as shall be designated by the Sublessor upon any sale, lease or other disposal of all or any of the Units.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Sublessee (and the Sublessee will maintain the insurance required by § 7 of this Sublease to be maintained during this period) and are of the essence of this Sublease; and, upon application to any court of equity having jurisdiction in the premises, the Sublessor shall be entitled to a decree against the Sublessee requiring specific performance of the covenants of the Sublessee so to assemble, deliver, store and transport the Units. During any storage period, the Sublessee will permit the Sublessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of any such Unit, to inspect the same. In the event that the Units or any thereof are sold, the Sublessee shall pay to the Sublessor the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Sublessee under the foregoing provisions of this § 11, the Sublessee hereby irrevocably appoints the Sublessor as the agent and attorney of the Sublessee, with full power and authority, at any time while the Sublessee is obligated to deliver possession of any Unit to the Sublessor, to demand and take possession of such Unit in the name and on behalf of the Sublessee from whomsoever shall be in possession of such Unit at the time and to give all appropriate notices and directions to the Association of American Railroads to change the registration of such Unit from the Sublessee to the Sublessor or as the Sublessor may direct.

§ 12. Assignment; Possession and Use. This Sublease shall be assignable in whole or in part by the Sublessor without the consent of the Sublessee; but the Sublessee shall be under no obligation to any assignee of the Sublessor other than the Owner-Trustee, or its reassignee, the Vendor, except upon written notice of such assignment or reassignment

from the Sublessor or the Owner-Trustee. All the rights of the Sublessor hereunder (including, but not limited to, the rights under §§ 6, 7, 10 and 20 and the rights to receive the rentals payable under this Sublease) shall inure to the benefit of the Sublessor's successors and assigns, including the Owner-Trustee, and to the Owner-Trustee's reassigns, including the Vendor, except to the extent the same may be reserved to the Owner-Trustee.

So long as no Event of Default hereunder or event of default under the Security Document (as defined therein) shall have occurred, the Sublessee shall be entitled to the possession of the Units in accordance with the terms of this Sublease but, without the prior written consent of the Sublessor, the Owner-Trustee and the Vendor, the Sublessee shall not assign or transfer its leasehold interest under this Sublease in the Units or any of them, except as hereinafter provided in this § 12. The Sublessee, 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 Owner, the Sublessor, the Owner-Trustee or the Vendor or resulting from claims against the Owner, the Sublessor, the Owner-Trustee or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Sublessor, the Owner-Trustee, the Vendor or the Sublessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, the Owner-Trustee and the Sublessor adversely affect the interest of the Vendor, the Owner-Trustee or the Sublessor in the Equipment, the Vendor's interest in the income and proceeds from the Equipment, or otherwise under this Sublease, the Lease or the Security Document. The Sublessee shall not, without the prior written consent of the Sublessor and the Owner-Trustee, 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 next paragraph.

So long as the Sublessee shall not be in default under this Sublease, the Sublessee shall be entitled to the possession and use of the Units in accordance with the terms

hereof and to permit use of the Units by any railroad company or companies incorporated in the United States of America with which it has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights or over which railroad equipment of such railroad company or companies 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 Sublease, the Lease and the Security Document; provided, however, that the Sublessee shall not assign, sublease or permit the assignment, sublease or use of any Unit predominantly outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), nor shall the Sublessee assign or sublease to, or permit the sublease or use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of the Code. The Sublessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 12 shall be deemed to restrict the right of the Sublessee to assign or transfer its leasehold interest under this Sublease in the Units or possession of the Units to (a) any solvent corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Sublessee hereunder and under the Participation Agreement by an appropriate instrument in writing) into or with which the Sublessee shall have become merged or consolidated or which shall have acquired the property of the Sublessee as an entirety or substantially as an entirety, or (b) any railroad corporation organized under the laws of the United States or any state thereof (which shall have specifically assumed the obligations of the Sublessee hereunder, under the Participation Agreement and under any other instrument or document contemplated hereby or thereby by an appropriate instrument in writing) which, at the time such assignment or transfer thereto shall become effective (1) qualifies as a Class I Railroad under the rules and regulations of the Interstate Commerce Commission, and (2) has outstanding at such time equipment obligations rated "A" (or the equivalent thereof) or better by Moody's

Investors Service or Standard & Poor's Corporation or a successor thereto, which rating shall have been provided thereby during the year preceding such assignment or transfer either in connection with the sale of equipment obligations or by a private letter; provided, in each case, that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition or of such assignment or transfer be in default under any provision of this Sublease.

In case of any sale or conveyance of all or substantially all of the lines of railroad of the Sublessee, or of the lines of the Sublessee on which a substantial portion of the Units are used, the purchaser, or transferee of the purchaser, shall not be at liberty to refuse to accept performance of this Sublease or to disaffirm it and any such purchaser and any such transferee shall assume and agree to perform each and all of the obligations of the Sublessee hereunder.

§ 13. Renewal Options. The Sublessor intends to retain the Units for re-lease at the expiration of the term of this Sublease. Provided that this Sublease has not been earlier terminated and the Sublessee is not in default hereunder the Sublessee may by written notice delivered to the Sublessor not less than six months prior to the end of the original term of this Sublease elect to extend the term of this Sublease in respect of all, but not fewer than all, the Units then covered by this Sublease for one additional three and one-half year period commencing on the scheduled expiration of the original term of this Sublease at a quarterly rental equal to the Rock Island Fair Market Rental Value of each Unit then subject to this Sublease on the date such rental is payable; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Sublease.

Provided the Sublessee exercises the renewal option provided in the first paragraph of this § 13, provided the Sublessor has elected to extend the term of the Lease pursuant to the renewal option provided in the first paragraph of § 13 of the Lease and provided that this Sublease has not been earlier terminated and the Sublessee is not in default hereunder, the Sublessee may by written notice delivered to the Sublessor not less than five months prior to the end of the original term of this Sublease, as extended pursuant to the first paragraph of this § 13, elect to extend the term of

this Sublease in respect of all, but not fewer than all, the Units then covered by this Sublease for one additional three and one-half year period commencing on the scheduled expiration of the term of this Sublease (as so extended), at a quarterly rental rate equal to the Rock Island Fair Market Rental Value of each Unit then subject to this Sublease; such rental shall be payable in arrears on January 15, April 15, July 15 and October 15 in each year of the extended term of this Sublease.

"Rock Island Fair Market Rental Value" shall be determined on the basis of the value which would be obtained as of the commencement of any renewal period in an arm's-length transaction between an informed and willing lessee-user with a credit standing comparable to the credit standing of the Sublessee at the commencement of such period (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease; provided, however, that such Value for any quarterly period shall not be less than the rental payment due under § 3 of the Lease for such period. If, after 30 days from the giving of notice by the Sublessee of the Sublessee's election to extend the term of this Sublease pursuant to the first or second paragraph of this § 13, as the case may be, the Sublessor and the Sublessee are unable to agree upon a determination of the Rock Island Fair Market Rental Value of the Units, the right of the Sublessee to extend this Sublease under the respective election shall expire.

§ 14. Return of Units upon Expiration of Term. On or prior to the termination of the term of this Sublease or as soon as practicable on or after the termination of the term of this Sublease and in any event not later than 90 days after the termination of the term of this Sublease the Sublessee will, at its own cost and expense, at the request of the Sublessor, cause each Unit to be transported to such point or points on the Sublessee's lines as shall be designated by the Sublessor immediately prior to such termination and arrange for the Sublessor to store such Unit on any of the Sublessee's lines of railroad or premises approved by the Sublessor for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 120 days from the date at which at least 95% of such Units are first placed in storage pursuant to this § 14; the assembly, delivery, storage and transporting of such Units to be at the expense and risk of the Sublessee. During any

which at least 95% of the Units have been so transported. If, after the termination of the storage period provided in this § 14, any Units have not been so transported, the Sublessee shall pay to the Sublessor the per diem interchange for each Unit not so transported for each day after the end of such storage period until such Unit or Units have been so transported; provided, however, that if any Unit has not suffered a Casualty Occurrence prior to the first anniversary of the termination of this Sublease and has not been so transported within one year after the termination of the term of this Sublease, such Unit shall be deemed to have suffered a Casualty Occurrence and the Sublessee shall pay or cause to be paid to the Sublessor, on the 10th day after the expiration of such year, an amount equal to the greater of (x) the Casualty Value of such Unit as of such payment date or (y) the Fair Market Value of such Unit as of the date this Sublease terminated and assuming such Unit had not experienced a Casualty Occurrence and was in the condition required to be maintained by the terms of this Sublease. If after 10 days from the expiration of such year, the Sublessor and the Sublessee are unable to agree upon a determination of the Fair Market Value of any such Unit, such value shall be determined in accordance with the appraisal procedure specified in the fourth paragraph of § 13 of the Lease and payment of such amount shall be made on the fifth business day following the determination of such Fair Market Value. "Fair Market Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing buyer (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell.

Upon the expiration of the original term of this Sublease on April 15, 1995, the Sublessee will deliver to the Sublessor and to the Owner-Trustee a certificate of the Sublessee to the effect that (a) no Event of Default or event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of April 15, 1995; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against the Sublessor, the Owner-Trustee or either Owner) were, as of April 15, 1995, imposed on or with respect to any Unit, any accession thereto, or the interest of the Sublessor, the Owner-Trustee or the Owner therein; (c) the Units have been returned to the Sublessor pursuant to this § 14 in the same operating order, repair and condi-

tion required by the first paragraph of this § 14 and (d) the Sublessee no longer has any interest in the Units under the Sublease or otherwise. The certificate described in clause (a) in the preceding sentence shall be furnished on April 15, 1980, and the certificates described in clauses (b), (c) and (d) in the preceding sentence, in addition to being furnished on April 15, 1980, shall be furnished on a monthly basis, beginning on May 15, 1995, and such certificates shall cover each Unit returned during the preceding 30 calendar days and shall apply to each such unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this § 14. Upon the expiration of any extended term of this Sublease, if the Sublessee shall not have elected to exercise any further renewal option (including the renewal option under the second paragraph of § 13 of the Lease) or if the Sublessee shall have no such further renewal option, the Sublessee shall deliver to the Sublessor and the Owner-Trustee a certificate or certificates of an officer of the Sublessee to the foregoing effect, with such conforming changes as shall be appropriate under the circumstances.

§ 15. Recording. The Sublessee, at its own expense, will cause this Sublease, the Lease, the Security Document, the Sublease Assignment, the Sublease Reassignment and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Sublessee will, at its own expense, undertake the filing, registering, deposit, and recording required of the Owner-Trustee under the Security Document and the Sublessor under the Lease 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 Sublessor, the Owner-Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Sublessor's, the Vendor's and the Owner-Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Sublease, the Lease, the Security Document, the Sublease Assignment, or the Sublease Reassignment.

The Sublessee will promptly furnish to the Sublessor, the Vendor and the Owner-Trustee evidence of each such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Sublessee with respect

thereto satisfactory to the Sublessor, the Vendor and the Owner-Trustee. This Sublease, the Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 16. Obligations of Owner-Trustee Under Security Document; Additional Rentals. In the event that the Owner-Trustee shall become obligated to make any payment (other than payments in settlement for Equipment or the principal of or interest on the Conditional Sale Indebtedness (as defined therein) pursuant to the Security Document and pursuant to the proviso to the third paragraph of Article 12 thereof) or to perform any obligations pursuant to the Security Document not covered by the provisions of this Sublease, the Sublessee shall pay such additional rentals hereunder and perform such obligations so that all of the Owner-Trustee's obligations (other than as aforesaid) pursuant to the Security Document shall be fully complied with, without regard for any limitation of liability of the Owner-Trustee contained in the Security Document.

§ 17. Sublessor's Right To Perform for the Sublessee. If the Sublessee fails to perform or comply with any of its agreements contained herein, the Sublessor may upon notice to the Sublessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Sublessor incurred in connection with such performance or compliance, together with interest on such amount at the rate of 10.75% per annum (or such lesser amount as may be legally enforceable), shall be payable by the Sublessee upon demand.

§ 18. 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 Sublessee promptly to pay an amount equal to interest at a rate of 10.75% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 19. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when delivered to such other party or by registered or certified mail, first-class postage prepaid, addressed as follows:

if to the Sublessor, care of Thayer, Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, Attention of President;

if to the Sublessee, at 332 South Michigan Avenue, Chicago, Illinois 60604, Attention of Chief Financial Officer;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above or so furnished for such party. Any notice to the Sublessee by the Vendor or the Investors regarding the Sublessee's failure to perform any obligation hereunder shall also be furnished by the Sublessee to the Owner-Trustee and the Sublessor.

§ 20. Federal Income Taxes. The Lease and this Sublease were entered into on the basis that an opinion of the chief mechanical officer of the Sublessee to the effect described in subsection (iv) of Paragraph 8 of the Participation Agreement will be provided to the Owner; that the Owner, as the beneficial owner of each Unit, shall be entitled to such deductions, credits and other benefits provided by the Code to an owner of property, including, without limitation, (a) deductions for depreciation of each Unit under section 167 of the Code computed on the basis (i) that each Unit will have a basis under section 167(g) of the Code at least equivalent to the Purchase Price of such Unit, (ii) initially of the declining balance method, using a rate equal to 200% of the straight line rate, switching to the sum of the years-digits method authorized by section 167(b)(3) of the Code in the year in which such switch will result in a greater depreciation deduction than would be available under the declining balance method, without obtaining the consent of the Commissioner of Internal Revenue in accordance with Treasury Regulation § 167(a)-11(c)(1)(iii), (iii) of the asset depreciation range and class life system permitted by section 167(m) of the Code and Treasury Regulation § 1.167(a)-11(a)(1), (iv) of an asset depreciation period of 12 years, (v) of a net salvage value of zero after the reduction permitted by section 167(f)(1) of the Code and (vi) that the Units of Equipment shall be treated as having been placed in service on the respective dates on which they are accepted

and delivered under this Lease and the Security Document (hereinafter called the ADR Deductions), (b) deductions with respect to interest payable on the Conditional Sale Indebtedness (hereinafter called the Interest Deductions), and (c) investment credit pursuant to section 38 of the Code at least equal to 10% of the aggregate Purchase Price of such Unit (hereinafter called the Investment Credit). This Sublease has also been entered into on the assumption that (1) for Federal income tax purposes all amounts includible in the gross income of the Owner with respect to the Equipment and all deductions allowable to the Owner with respect to the Equipment will be treated as derived from, or allocable to, sources within the United States, (2) for purposes of computing the ADR Deductions with respect to the Equipment for the calendar year in which the Units of Equipment were first placed into service, the Owner will be entitled to elect and will elect the half-year convention and (3) the Federal rate of tax imposed on taxable income of corporations in excess of $100,000 will be 46% through the date of acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Lease.

The Sublessee agrees that neither it nor any corporation controlled by it or the Debtor, in control of it or the Debtor, or under common control with it or the Debtor, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing.

The Sublessee agrees to use its best efforts to maintain or cause to be maintained sufficient records to verify the amount of income and deductions in respect of each Unit of Equipment allocable to sources within and without the United States. The Sublessee agrees to give the Owner, within 60 days after request therefor, written notice describing the amount of income and deductions allocable to sources within and without the United States and specifying in reasonable detail the basis on which such allocations were made, if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner. In addition, within 90 days after the end of each calendar year, beginning with the year 1979, the Sublessee agrees to furnish to the Owner a statement to the effect that none of the Equipment has been used outside of

the United States other than in Canada or Mexico on a temporary basis not exceeding 90 days during the preceding calendar year, or if any of the Equipment was used outside the United States other than as aforesaid during such year, giving the appropriate details of any such use, which statement shall be signed by the chief financial officer of the Sublessee.

The Sublessee represents and warrants that (i) all of the Units constitute property the entire Purchase Price of which qualifies for the Investment Credit under section 50 of the Code; (ii) at the time the Owner-Trustee becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of section 48(b) of the Code and at the time the Owner-Trustee becomes the owner of the Units, the Units will not have been used or placed in service by any person so as to preclude "the original use of such property" within the meaning of sections 48(b) and 167(c)(2) of the Code from commencing with the Owner-Trustee; (iii) at all times during the original term of this Sublease and all renewal terms, each Unit will constitute "section 38 property" within the meaning of section 48(a) of the Code; and (iv) at all times during the original term of this Sublease and the renewal periods, the Owner will be entitled to treat, for Federal income tax purposes, each item of income, deduction, and credit relating to all Units subject to this Sublease as being derived from, or allocable to, sources within the United States.

If, for Federal income tax purposes, as a result of any reason whatsoever, but excluding any of the specific occurrences or events specified in the sixth paragraph of this § 20, (a) the Owner shall not be entitled to, shall suffer a disallowance or recapture of, shall lose the benefit of, or shall lose the right to claim (including a good faith determination based upon the opinion, to be obtained at the cost of the Sublessee, of independent tax counsel of the Owner approved by the Lessee ("Special Tax Counsel"), which approval shall not unreasonably withheld, that there is no reasonable basis to make such claim), all or any portion of the Investment Credit, the ADR Deductions or the Interest Deductions or (b) any item of income, deduction or credit with respect to the Equipment shall not be treated as derived from, or allocable to, sources within the United States (any such event described in clause (a) or (b) of this paragraph being hereinafter called a Loss), then the Sublessee, at its option, after receiving written notice from the

Sublessor of such Loss together with a certificate of an officer of the Sublessor setting forth in reasonable detail the computations and methods used in calculating such Loss and the amount or amounts of the payments required to be made pursuant to clause (i) or (ii) below (such notice and certificate being hereinafter collectively called the Net Economic Return Notice), shall either (i) commencing with the next rental payment date occurring more than 30 days after receipt by the Sublessor of the Net Economic Return Notice, which Net Economic Return Notice may not be delivered more than 30 days prior to payment by the Owner of the tax which becomes due as a result of the Loss, increase the rental payments under this Sublease over its remaining term by an amount as shall cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such Loss had not occurred, such increase in the rental payments to be made directly to the Owner, or (ii) within 30 days of receipt of the Net Economic Return Notice, pay to the Owner in lump sum the amount as shall, in the reasonable opinion of the Owner, be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred. If the option under (ii) above is selected, then to the extent any Loss results in a later benefit to the Owner which has not been taken into account in determining the lump sum payment, payment will be made to the Sublessee at the time such benefit is realized; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Sublessee to the Owner pursuant to the option specified in (ii) above in respect of a Loss less (y) the amount of all prior payments by the Owner to the Sublessee hereunder, and the amount by which such payment would exceed such amounts shall reduce pro tanto any subsequent obligation of the Sublessee to make any payments to the Owner pursuant to the option specified in (ii) above. The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions as were utilized by the Owner in originally evaluating the transaction except for the assumption that has resulted in such adjustments.

In the event that the Owner suffers a Loss and the Owner and the Sublessee are unable to agree within 60 days following the Sublessee's receipt of a Net Economic Return

Notice on the indemnity amounts or amounts required to restore the Owner's Net Economic Return, then the Sublessee shall pay in lump sum, within 30 days after expiration of said 60-day period, such amount as shall, in the reasonable opinion of the Owner (regardless of whether the Sublessee agrees therewith), be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred.

If there is any amendment to, or change in, the Code or any regulation thereunder which is effective on or prior to the acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document and this Sublease, and if such amendment or change affects the privilege of the Owner to file consolidated Federal, state and local income tax returns with corporations affiliated with it, or the Federal rate of tax on the taxable income of corporations, then the amounts of rentals and the Casualty Values under this Sublease will be appropriately adjusted by such amount or amounts as shall, in the reasonable opinion of the Owner, cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such amendment or change had not occurred; provided, however, that the rentals and Casualty Values, as so adjusted, shall not be less than amounts sufficient to satisfy the obligations of the Owner-Trustee under the Security Document.

Any late payment by any party hereto of any of its obligations under this § 20 shall result in the obligation on the part of such party promptly to pay an amount equal to interest at the rate per annum equal to 1% in excess of the Prime Rate compounded quarterly on the overdue payment. Prime Rate as used herein shall mean the rate per annum which Manufacturers Hanover Trust Company, New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable.

Notwithstanding anything to the contrary set forth hereinabove, no amount shall be payable as an indemnity here under to the Owner in respect of any Loss to the extent such Loss is the result of any of the following on the part of the Owner:

(i) a voluntary transfer or voluntary disposition (whether prior to, during or after the term of the

Lease or this Sublease, but not including a transfer or disposition as a result of a Casualty Occurrence) of any Units or of the interest of the Owner in any Units or the rentals under the Lease or this Sublease, or any transfer or disposition of any Units or of the interest of the Owner in any Units or the rentals under the Lease or this Sublease, whether voluntary or involuntary, which results from bankruptcy or other proceedings for the relief of debtors in which the Owner is the debtor, unless, in each case, such transfer or disposition is made (A) after an Event of Default, as defined in § 10 of this Sublease, has occurred and is continuing; (B) in connection with any alteration, modification or addition to any Unit; or (C) with the consent of the Sublessee;

(ii) the failure of the Owner to claim in a timely manner the Investment Credit, the ADR Deductions (including making all appropriate elections under the applicable Income Tax Regulations), the Interest Deductions or any foreign tax credit or to make a timely election, if permitted by the Code, to treat income and deductions with respect to the Equipment as derived from, or allocable to, sources within the United States, unless Special Tax Counsel of the Owner shall have given its opinion to the Owner that such claim is not allowable;

(iii) the failure of the Owner to have sufficient liability for Federal income tax against which to credit Investment Credit or foreign tax credit or sufficient income to benefit from the ADR Deductions or the Interest Deductions, as applicable;

(iv) any residual sharing, guarantee agreement or other voluntary act of the Owner (either individually or in concert with others) which is not included in the foregoing clauses and which is not required or contemplated by the Security Document, the Participation Agreement, the Trust Agreement, the Lease, this Sublease, the Sublease Assignment, the Sublease Assignment Consent, the Lease Assignment, the Consents, the Assignment, the Bond, the Assumption Agreement if entered into or any other document contemplated by any of the foregoing or entered into in connection therewith;

(v) a change in the form or type of organization or the taxable status of the Owner or any successor or transferee of the Owner;

(vi) a Casualty Occurrence with respect to a Unit, if the Owner-Trustee shall have received all amounts required to be paid in respect of such Casualty Occurrence under the Lease;

(vii) any amendment to, or change in, the Code or the Income Tax Regulations which is effective after acceptance of the last Unit of Equipment to be accepted pursuant to the Security Document, the Lease and this Sublease; or

(viii) termination of this Sublease, pursuant to the second paragraph of § 4 hereof, upon a finding by the Court that the Sublessee is unable to transport the traffic offered the Sublessee because of the Sublessee's cash position or that other facts make the Sublessee's continuing operation of the Debtor impossible and upon an order of the Court that the Sublessee discontinue service and/or liquidate the assets of the Debtor or upon a disaffirmance or rejection of this Sublease pursuant to a plan of reorganization in the Reorganization Proceedings.

If at the conclusion of an audit the Owner receives a preliminary or "30-day" letter from the Internal Revenue Service proposing an adjustment in any item claimed in accordance with the fifth paragraph of this § 20 on a tax return or refund claim of the Owner for which the Sublessee would be required to indemnify the Owner pursuant to this § 20 and the amount of the indemnity which the Sublessee would be required to pay would exceed $100,000 or in the good faith opinion of the Sublessee, the adjustment would have a substantial and continuing precedental adverse effect on the Lessee or the Sublessee or the railroad industry and the Sublessee so advises the Owner in writing, then, if requested by the Sublessee in a timely written request, the Owner shall request an opinion from Special Tax Counsel of the Owner as to whether the basis in law and in fact in favor of allowance of the item proposed to be adjusted outweighs the basis in law and in fact to the contrary. If the opinion is to that effect and if the Sublessee promptly requests the Owner to do so, the Owner shall contest the proposed adjustment; provided, however, that Special Tax Counsel of the Owner shall determine the nature of all action to be taken to contest such proposed adjustment including (A) whether any action to contest such proposed adjustment shall initially be by way of judicial or administrative proceedings, or both, (B) whether any such proposed adjustment shall be contested by resisting payment thereof or by paying the same and seeking a refund thereof,

and (C) if the Owner shall undertake judicial action with respect to such proposed adjustment, the court or other judicial body before which such action shall be commenced. The Owner shall have full control over any contest pursuant to this paragraph and shall not be obligated to appeal an adverse determination by any court if the Owner shall have obtained an opinion from its Special Tax Counsel that the basis in law and in fact in favor of a favorable outcome in the event such determination is appealed outweighs the basis in law and in fact to the contrary there is no reasonable likelihood of a favorable outcome in the event such determination is appealed. At any time, whether before or after commencing to take the action set forth in this paragraph, the Owner may decline to take such action by notifying the Sublessee in writing that the Sublessee is relieved of its obligation to indemnify the Owner with respect to the adjustment proposed by the Internal Revenue Service or such portion thereof as may be specified in such notice.

The Owner shall not be required to take any action pursuant to the preceding paragraph unless and until the Sublessee shall have agreed to indemnify the Owner in a manner reasonably satisfactory to the Owner for any liability or loss which the Owner may incur as a result of contesting the validity of any proposed adjustment and shall have agreed to pay to the Owner on demand all costs and expenses which the Owner may incur in connection with contesting such proposed adjustment (including reasonable fees and disbursements of counsel selected by the Owner). If the Owner determines to contest any adjustment by paying the additional tax and suing for a refund, the Sublessee shall have paid to the Owner an amount equal to the sum on an after-tax basis of any tax, interest, penalties and additions to tax which are required to be paid. Upon receipt by the Owner of a refund of any amounts paid by it based on the adjustment in respect of which amounts it shall have been paid an equivalent amount by the Sublessee, the Sublessor shall pay to the Sublessee when received from the Owner the amount of such refund together with any interest received by it on such amount, and if such refund is not taxable income to the Owner, and if payment under this or the preceding paragraph to the Sublessee is deductible by the Owner for Federal income tax purposes, then the Sublessor shall also pay to the Sublessee when received from the Owner the amount by which the Owner's taxes are reduced as the result of such deduction; provided, however, that in no event shall the total amount paid to the Sublessee pursuant to this or the preceding paragraph with respect to a particular refund exceed the amount paid by the Sublessee to the Owner in connection with

the payments made pursuant to the immediately preceding sentence to which such refund relates.

For purposes of this § 20, the term "Owner" shall include any affiliated group, within the meaning of section 1504 of the Code, of which the Owner is a member if consolidated returns are filed for such affiliated group for Federal income tax purposes.

If the Owner is required by the Internal Revenue Service to include in its gross income an amount in respect of any improvement and/or addition to such Unit of Equipment made by the Sublessee, title to which vests in the Owner or the Owner-Trustee (which amounts are hereinafter called Capital Expenditures), then the Sublessee shall pay directly to the Owner, as an indemnity, in immediately available funds, such amount or amounts which, after deduction of all taxes required to be paid by the Owner in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority of the United States, shall be equal to the sum of the aggregate additional Federal, state or local income taxes payable by the Owner from time to time as a result of such Capital Expenditure plus the amount of any interest, penalties or additions to tax payable as a result of any such Capital Expenditure (less any Federal, state or local tax benefits resulting from payment of any amounts reimbursed hereunder). If as a result of any such Capital Expenditure the aggregate Federal, state or local income taxes paid by the Owner for any taxable year shall be less than the amount of such taxes which would have been payable by the Owner had no such Capital Expenditure been made, then the Sublessor shall pay the Sublessee (when received by the Sublessor from the Owner) the amount of such savings in taxes plus any additional tax benefits realized by the Owner as a result of such payment; provided, however, that the Sublessor shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Sublessee to the Owner pursuant to this paragraph in respect of any Capital Expenditures less (y) the amount of all prior payments by the Sublessor to the Sublessee hereunder, and the amount by which such payment would exceed such amount shall reduce pro tanto any subsequent obligation of the Sublessee to make any payments to the Owner pursuant to the first sentence of this paragraph. The amount payable to the Owner pursuant to this paragraph shall be paid within 30 days after receipt of the written

demand therefor from the Owner (but not prior to payment by the Owner of the additional Federal, state or local income tax, as the case may be, which becomes due as a result of the said inclusion) accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Sublessee from the Sublessor pursuant to this paragraph shall be paid immediately after the Sublessor receives from the Owner the amount that the Owner realized from any such savings in its income taxes or additional tax benefits, as the case may be. The Sublessor agrees to cause the Owner to contest the inclusion in its gross income of any amount with respect to a Capital Expenditure to the extent, and under the circumstances, set forth in the ninth and tenth paragraphs of this § 20.

The Sublessee agrees to give the Owner, within 30 days after request therefor, written notice describing in reasonable detail Capital Expenditures made and specifying the cost thereof with respect to each Unit of Equipment if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner.

In the event that any indemnity payments are required to be made by the Sublessee, or in the event the amount of rentals under this Sublease are adjusted, pursuant to any paragraph of this § 20, the damages and amounts set forth in § 10 of this Sublease and the applicable Casualty Value percentages set forth in Schedule B to this Sublease shall be appropriately adjusted by the Owner (but in no event shall the applicable Casualty Values be reduced below the corresponding Fair Values as defined in the Security Document). The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions, including, without limitation, tax rates, as were utilized by the Owner in originally evaluating this transaction except for the assumption that has resulted in such adjustment. In connection therewith, the Sublessor shall cause the Owner to provide the Sublessee with a certificate of an officer of the Owner setting forth in reasonable detail the figures and methods used in making such calculations. In the case of any such adjustments in the damages and amounts set forth in § 10 of this Sublease and the applicable Casualty Value percentages set forth in Schedule B to this Sublease, if any payment of such damages, amounts or Casualty Values shall have been made

prior to the adjustments made pursuant to this paragraph, (a) the Sublessee shall pay to the Owner the excess amount which would have been payable on the due date of such payment by reason of the adjustments pursuant to this paragraph or (b) the Sublessor shall pay to the Sublessee when received from the Owner the amount of such payments in excess of the amount of such payments which would have been payable by reason of the adjustments pursuant to this paragraph. The Sublessee's and the Sublessor's agreements to pay any sums which may become payable pursuant to this § 20 shall survive the expiration or other termination of this Sublease and the Lease.

The Sublessee shall have the right, upon demand, to have Thayer Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, or another independent party selected by the Sublessee and approved by the Owner, which approval shall not be unreasonably withheld, review any calculations made by the Owner pursuant to this § 20 to determine the consistency of the methods and the assumptions used in such calculations with those used by the Owner in originally evaluating this transaction and the accuracy of such computations based on such methods and assumptions.

The liability of the Sublessee to make indemnification payments pursuant to this § 20 shall, notwithstanding any expiration or termination of this Sublease, continue to exist until such indemnity payments are made by the Sublessee. All indemnity payments under this § 20 shall be made directly to the Owner.

§ 21. Severability; Effect and Modification of Sublease; Third Party Beneficiaries. Any provision of this Sublease 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.

This Sublease exclusively and completely states the rights of the Sublessor and the Sublessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement and the Lease. No variation or

modification of this Sublease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Sublessor and the Sublessee and no such variation shall be made without the prior written consent of the Vendor and the Owner-Trustee.

Nothing in this Sublease shall be deemed to create any right in any person not a party hereto (other than the Sublessor, the Owner, the Builder, the Owner-Trustee, the Vendor and the permitted successors and assigns of a party, each of which shall be deemed to be a third party beneficiary hereof) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

§ 22. Other Obligations. The Sublessee agrees that, during the term of this Sublease, the Sublessee will not assume or enter into any other leases of equipment, equipment trust agreements, conditional sale agreements or other liabilities or obligations in connection with the leasing or financing of the acquisition of equipment or other tangible personal property, (i) if such liabilities or obligations would be entitled, directly or indirectly, to any priority in right of payment over the obligations of the Sublessee under this Sublease, or (ii) if such liabilities or obligations would be secured, directly or indirectly, by any mortgage, lien or other security interest in property of the Debtor or the Sublessee (except the equipment or other property involved in the particular transaction) unless the obligations of the Sublessee under this Sublease are equally and ratably secured thereby, provided that nothing herein shall restrict the right of the Trustee to issue and sell trustees' certificates for any proper purpose.

It is hereby expressly understood and agreed that any and all obligations of the Sublessee hereunder and any and all amounts payable in connection therewith, including but not limited to amounts payable under §§ 3 and 7 hereof and obligations arising out of any breach of warranty or breach or termination of this Sublease, or otherwise, together with interest thereon to the date of payment thereof, shall be and deemed to be necessary costs and expenses of administration incurred by the Trustee in the Reorganization Proceedings and shall rank equally and ratably with all other expenses of administration of the Trustee, except trustees' certificates heretofore or hereafter issued by the Trustee;

and, without limitation of the foregoing, to the extent that the free assets are not sufficient to pay in full in cash such obligations, such obligations, together with interest thereon as herein provided, shall be paid in full in cash out of the liened assets prior to any payment or other distribution being made to the Bondholders.

For the purpose of this Sublease:

(a) The term "free assets" shall mean any and all property and assets of the Sublessee and the Debtor's estate of every kind and description, tangible and intangible (including cash on hand and on deposit), not subject to mortgage, pledge, lien, trustees' certificates, equipment trusts or other encumbrances.

(b) The term "liened assets" shall mean any and all property and assets of the Sublessee and the Debtor's estate of every kind and description, tangible and intangible, subject to the lien of the mortgage securing the Bonds.

(c) The term "Bonds" shall mean any bonds issued by the Debtor, including the following: the First Mortgage Bonds, Series A due 1980, Series C due 1983, Series G due 1993, Series H due 2004 and Series I due 2004.

(d) The term "Bondholders" shall mean the holders of any of the Bonds issued by the Debtor.

§ 23. Execution. This Sublease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although for convenience this Sublease 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.

§ 24. Law Governing. The terms of this Sublease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

IN WITNESS WHEREOF, the parties hereto have exe-

cuted or caused this instrument to be executed as of the date first above written.

WILLIAM M. GIBBONS,

_____[Seal]
As TRUSTEE OF THE PROPERTY
OF CHICAGO, ROCK ISLAND
AND PACIFIC RAILROAD COMPANY,
and not individually

Witness:

_____

GAMS TRANSPORTATION, INC.,

[CORPORATE SEAL]

by

_____

Attest:

_____

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

On this day of 1979, before me personally appeared William M. Gibbons, to me pesonally known who, being by me duly sworn, says that he is the TRUSTEE OF THE PROPERTY OF THE CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, signer and sealer of the foregoing instrument, and he acknowledged the same to be his free act and deed, as such Trustee pursuant to specific orders of the United States District Court for the Northern District of Illinois in proceedings bearing No. 75B-2697, before me.

Notary Public

[Notarial Seal]

My Commission Expires

STATE OF CALIFORNIA,)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is , of GAMS TRANSPORTATION, INC., 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.

Notary Public

[Notarial Seal]

My Commission Expires

Schedule A to the Sublease

Type	Builder's Specification	Builder's Plant	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Road Numbers (Inclusive)	Estimated Time of Delivery
50 foot, 6 inch 70-ton Class XF boxcar	No. 1042, dated March 29, 1979, as amended	Bessemer, Alabama	308	$40,900	$12,597,200	ROCK 302042 through ROCK 302249 W&OV 1 through W&OV 100	July-August 1979

Place of delivery: Bessemer, Alabama

SCHEDULE B
to
SUBLEASE

Casualty Values*

Item I:

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**		Percentage of Purchase Price
4/1980	1	85.23	1/1990	40	67.11
7/1980	2	85.76	4/1990	41	65.98
10/1980	3	86.20	7/1990	42	64.82
1/1981	4	86.49	10/1990	43	63.65
4/1981	5	86.79	1/1991	44	62.45
7/1981	6	87.07	4/1991	45	61.25
10/1981	7	87.28	7/1991	46	60.01
1/1982	8	87.44	10/1991	47	58.75
4/1982	9	87.51	1/1992	48	57.48
7/1982	10	87.56	4/1992	49	56.21
10/1982	11	87.42	7/1992	50	54.90
1/1983	12	87.35	10/1992	51	53.59
4/1983	13	87.23	1/1993	52	52.26
7/1983	14	87.08	4/1993	53	50.93
10/1983	15	86.83	7/1993	54	49.58
1/1984	16	86.51	10/1993	55	48.23
4/1984	17	86.24	1/1994	56	46.87
7/1984	18	85.90	4/1994	57	45.50
10/1984	19	85.48	7/1994	58	44.14
1/1985	20	84.98	10/1994	59	42.76
4/1985	21	84.47	1/1995	60	41.39
7/1985	22	83.93	4/1995	61	40.01
10/1985	23	83.30	7/1995	62	38.63
1/1986	24	82.61	10/1995	63	37.25
4/1986	25	81.90	1/1996	64	35.87
7/1986	26	81.27	4/1996	65	34.49
10/1986	27	80.49	7/1996	66	33.11
1/1987	28	79.15	10/1996	67	31.73
4/1987	29	78.06	1/1997	68	30.35
7/1987	30	77.21	4/1997	69	28.98
10/1987	31	76.32	7/1997	70	28.62
1/1988	32	75.40	10/1997	71	28.25
4/1988	33	74.45	1/1998	72	27.87
7/1988	34	73.48	4/1998	73	27.48
10/1988	35	72.48	7/1998	74	27.09
1/1989	36	71.45	10/1998	75	26.69
4/1989	37	70.40	1/1999	76	26.27
7/1989	38	69.32	4/1999	77	25.85
10/1989 and thereafter	39	68.23	7/1999	78	25.42

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* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

SCHEDULE B
to
SUBLEASE

Casualty Values*

Item I:

Rental Payment Date**		Percentage of Purchase Price	Rental Payment Date**	Percentage of Purchase Price
10/1999	79	24.98		
1/2000	80	24.53		
4/2000	81	24.07		
7/2000	82	23.60		
10/2000	83	23.12		
1/2001	84	22.63		
4/2001	85	22.13		
7/2001	86	21.61		
10/2001	87	21.09		
1/2002	88	20.55		
4/2002	89	20.00		
and thereafter				

Item II:

Anniversary of Delivery and Acceptance	Percentage of Purchase Price
Third	19.64444
Fifth	13.09630
Seventh	6.54815

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* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

** The rental payment date is the 15th day of the month set forth.

Appendix B to
Lease

ASSIGNMENT OF SUBLEASE AND AGREEMENT

Dated as of July 20, 1979

between

GAMS TRANSPORTATION, INC.,
as Lessee,

and

FIRST SECURITY STATE BANK,
not in its individual capacity, but solely
as Owner-Trustee for General Electric Credit Corporation,
as Owner-Trustee.

ASSIGNMENT OF SUBLEASE AND AGREEMENT dated as of July 20, 1979, between GAMS TRANSPORATION, INC. (hereinafter called the Lessee), and FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof, with General Electric Credit Corporation.

The Owner-Trustee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), providing for the sale to the Owner-Trustee of such units of railroad equipment (hereinafter called the Units) described in Annex B thereto as are delivered to and accepted by the Owner-Trustee thereunder.

The Owner-Trustee and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) providing for the leasing by the Owner-Trustee to the Lessee of the Units.

The Lessee and William M. Gibbons, Trustee of the Property of the Chicago, Rock Island and Pacific Railroad Company (hereinafter called the Sublessee), have entered into a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease) providing for the leasing by the Lessee to the Sublessee of the Units.

In order to provide security for the obligations of the Lessee under the Lease and under the Participation Agreement hereinafter referred to and as an inducement to Investors (as that term is defined in the Participation Agreement) (hereinafter called the Investors) to invest in the Conditional Sale Indebtedness (as that term is defined in the Security Document), the Lessee agrees to assign for security purposes all its rights in, to and under the Sublease to the Owner-Trustee.

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter

mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 11 hereof, the Lessee hereby assigns, transfers and sets over unto the Owner-Trustee, as collateral security for the payment and performance of the Lessee's obligations under the Lease and the Participation Agreement, all the Lessee's right, title and interest, powers, privileges, and other benefits under the Sublease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums now or hereafter payable to or receivable by the Lessee from the Sublessee under or pursuant to the provisions of the Sublease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Sublease, and to do any and all other things whatsoever which the Lessee is or may become entitled to do under the Sublease. In furtherance of the foregoing assignment, the Lessee hereby irrevocably authorizes and empowers the Owner-Trustee in its own name, or in the name of its nominee, or in the name of the Lessee or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessee is or may become entitled under the Sublease, and to enforce compliance by the Sublessee with all the terms and provisions thereof.

The parties hereto acknowledge that certain rights under this Sublease Assignment are to be reassigned by the Owner-Trustee to First Security Bank of Utah, N.A., not in its individual capacity but solely as Agent (hereinafter called the Vendor) under a Participation Agreement dated as of the date hereof (herein called the Participation Agreement), and that pursuant to an assignment of the Lease and a reassignment of the Sublease all moneys payable thereunder and so assigned are to be paid at the principal office of the Vendor for application by the Vendor pursuant to the Participation Agreement. In the event that the Owner-Trustee receives any amounts of money under the terms of the Lease or the Sublease and so assigned, the Owner-Trustee shall forthwith forward such amounts to the Vendor for its application as aforesaid.

2. This Sublease Assignment is executed only as security of the obligations of the Lessee under the Lease

and the Participation Agreement and, therefore, the execution and delivery of this Sublease Assignment shall not subject the Owner-Trustee to, or transfer, or pass, or in any way affect or modify the liability of the Lessee under the Sublease, it being understood and agreed that notwithstanding this Sublease Assignment or any subsequent assignment, all obligations of the Lessee to the Sublessee shall be and remain enforceable by the Sublessee, its successors and assigns, against, and only against, the Lessee or persons other than the Owner-Trustee and the Vendor.

3. To protect the security afforded by this Sublease Assignment, but subject to the provisions of Paragraph 11 hereof, the Lessee agrees as follows:

(a) The Lessee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Sublease provides are to be performed by the Lessee; without the written consent of the Owner-Trustee and, so long as the Conditional Sale Indebtedness is outstanding, the Vendor, the Lessee will not anticipate the rents under the Sublease or waive, excuse, condone, forgive or in any manner release or discharge the Sublessee of or from the obligations, covenants, conditions and agreements to be performed by the Sublessee which are intended to satisfy the obligations of the Lessee under the Lease, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement so amending, modifying or terminating the Sublease and the Lessee agrees that any such amendment, modification or termination thereof without such consent shall be void.

(b) Should the Lessee fail to make any payment or to do any act which this Sublease Assignment requires the Lessee to make or do, then the Owner-Trustee or, so long as the Conditional Sale Indebtedness is outstanding, the Vendor, but without obligation so to do, after first making written demand upon the Lessee and affording the Lessee a reasonable period of time within which to make such payment or do such act, but without releasing the Lessee from any obligation hereunder, may make or do the same in such manner and to such extent as the Owner-Trustee or Vendor may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear

in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Owner-Trustee and the Vendor, and also the right to perform and discharge each and every obligation, covenant and agreement of the Lessee contained in the Sublease; and in exercising any such powers, the Owner-Trustee and the Vendor may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Lessee will reimburse the Owner-Trustee and the Vendor for such costs, expenses and fees.

4. Subject to the provisions of Paragraph 11 hereof, the Lessee does hereby constitute the Owner-Trustee the Lessee's true and lawful attorney, irrevocably, with full power (in the name of the Lessee, 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 Sublease to which the Lessee is or may become entitled, to enforce compliance by the Sublessee with all the terms and provisions of the Sublease, 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 to the Owner-Trustee may reasonably seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Lessee's obligations under the Lease and the Participation Agreement, this Sublease Assignment and all rights herein assigned to the Owner-Trustee shall terminate, and all estate, right, title and interest of the Owner-Trustee and Vendor in and to the Sublease shall revert to the Lessee, but the Owner-Trustee shall execute and deliver such documents as the Lessee may reasonably request in order to confirm, or make clear upon public records, such termination and/or reversion.

6. The Lessee will pay and discharge any and all claims, liens, charges or security interests (other than created by the Security Document) on the Sublease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessee, or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the Participation Agreement, the Security Document, the Sublease or the Lease (but including tax liens arising out of the receipt of the income and proceeds from the Units) unless such claims, liens,

charges or security interests would rank subordinate to the interests of the Owner-Trustee and the Vendor in and to the Sublease and of the Vendor in and to the Lease or such rentals or other payments, or unless the Lessee shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not materially adversely affect such interests of the Vendor and the Owner-Trustee, in the reasonable opinion of the Vendor and the Owner-Trustee, respectively.

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

8. The Owner-Trustee may assign all or any of the rights assigned to it hereby or arising under the Sublease, including, without limitation, the right to receive any Payments due or to become due and the power to act as the Sublessee's true and lawful attorney, and the parties hereto acknowledge that this Sublease Assignment is to be reassigned to the Vendor as aforesaid. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Owner-Trustee hereunder. The Owner-Trustee will give written notice to the Lessee and the Sublessee of any such assignment other than the assignment to the Vendor.

9. This Sublease Assignment shall be governed by the laws of the State of Ohio, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

10. So long as the Conditional Sale Indebtedness is outstanding, the Lessee shall cause copies of all notices received in connection with the Sublease and all payments thereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the Security Document or at such other address as the Vendor shall designate.

11. The Owner-Trustee hereby agrees with the Lessee that, so long as no Event of Default, or any event which with lapse of time or notice or both would constitute such an Event of Default, under the Lease has occurred and is then continuing, the Owner-Trustee will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of

the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessee to the Owner-Trustee by this Sublease Assignment, except the right to receive, forward and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Sublease, the Lease and the Security Document, the Lessee may, so long as no Event of Default or event which with notice or lapse of time or both would constitute such an Event of Default under the Lease has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges and remedies under the Sublease (except, unless the Sublease shall be terminated, the right to receive, forward and apply Payments as provided in Paragraph 1 hereof or to amend, modify or waive any provisions of the Sublease such that the Sublease would fail to meet the requirements of a sublease as provided in the fourth paragraph of § 12 of the Lease), including its rights, powers, privileges and remedies arising out of subparagraphs (a) and (b) of the first paragraph of § 10 of the Sublease.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

GAMS TRANSPORTATION, INC.,

by

_____

[Corporate Seal]

Attest:

_____

FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Owner-Trustee,

by

_____

[Corporate Seal]

Attest:

_____

Authorized Officer

STATE OF CALIFORNIA,)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is of GAMS TRANSPORTATION, INC., 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.

Notary Public

[Notarial Seal]

My Commission Expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, 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 By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission Expires

SUBLESSEE'S CONSENT AND AGREEMENT

On March 17, 1975, the Chicago, Rock Island and Pacific Railroad Company, Debtor, filed a petition for reorganization under Section 77 of the Bankruptcy Act in the United States District Court for the Northern District of Illinois and such petition was duly approved as properly filed and by order entered on April 4, 1975, by such Court the undersigned William M. Gibbons was duly qualified as Trustee of the Property of the Chicago, Rock Island and Pacific Railroad Company, Debtor. The undersigned, the Sublessee named in the Sublease referred to in the foregoing Sublease Assignment (hereinafter called the Assignment), 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 Investors, as such term is defined in the Security Document referred to in the Assignment, to invest in the Conditional Sale Indebtedness (as so defined) pursuant to which First Security State Bank, not in its individual capacity but solely as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Owner-Trustee), is in part financing its purchase of units of railroad equipment (hereinafter called the Units) and to the Owner-Trustee to purchase such Units pursuant to the Security Document (as defined in the Assignment), which Units the Owner-Trustee is leasing to GAMS Transportation, Inc. (hereinafter called the Lessee), pursuant to the Lease (as defined in the Assignment) and the Lessee is leasing to the Sublessee pursuant to the Sublease; and in consideration of other good and valuable consideration, the Sublessee agrees that:

(1) subject to the terms and conditions of the Assignment, the Sublessee will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Sublease and assigned to the Owner-Trustee by the Assignment (other than indemnity payments under § 6 and § 20 of the Sublease payable to the Lessee, which shall be paid to the Owner-Trustee at its address set forth in the Participation Agreement referred to below) (which moneys are hereinafter called the Payments) due and to become due to the Lessee under the Sublease in respect of the Units leased thereunder, directly to the First Security Bank of Utah, N.A., as agent (hereinafter called

the Agent) under the Participation Agreement referred to in the Assignment, to be applied as provided in the first paragraph of Paragraph 10 of the Participation Agreement, to its address at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) the Owner-Trustee shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Sublessee under the Sublease as though the Owner-Trustee were named therein as the Lessee;

(3) the Owner-Trustee shall not, by virtue of the Sublease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Sublease or otherwise;

(4) the Sublease shall not, without the prior written consent of the Owner-Trustee and, so long as the Conditional Sale Indebtedness is outstanding, the Agent, be terminated (other than pursuant to the second paragraph of § 4 thereof) or modified, nor shall any action be taken or omitted by the Sublessee the taking or omission of which might result in an alteration or impairment of the Sublease or the Sublease Assignment or this Consent and Agreement or of any of the rights created by any thereof; and

(5) it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Sublease and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Consent and Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the

Owner-Trustee by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Illinois and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of July 20, 1979

WILLIAM M. GIBBONS,

_____ [Seal]
As TRUSTEE OF THE PROPERTY
OF CHICAGO, ROCK ISLAND AND
PACIFIC RAILROAD COMPANY,
and not individually.

Witness:

_____

Accepted:

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by _____

[SEAL]

Attest:

_____

Annex D to the
Conditional Sale Agreement

ASSIGNMENT OF LEASE, REASSIGNMENT OF SUBLEASE, ASSIGNMENT OF SURETY BOND AND AGREEMENT

Dated as of July 20, 1979

between

FIRST SECURITY STATE BANK,
not in its individual capacity but solely as Owner-Trustee for
GENERAL ELECTRIC CREDIT CORPORATION,

and

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity but solely as agent under the
Participation Agreement dated as of the date hereof,

as Agent.

ASSIGNMENT OF LEASE, REASSIGNMENT OF SUBLEASE, ASSIGNMENT OF SURETY BOND AND AGREEMENT dated as of July 20, 1979, by and between FIRST SECURITY STATE BANK, not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement dated as of the date hereof with GENERAL ELECTRIC CREDIT CORPORATION (hereinafter called the Owner) and FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as agent (hereinafter called the Agent) for certain institutional investors (hereinafter called the Investors) under a Participation Agreement dated as of the date hereof with the Owner-Trustee, the Owner, the Investors, GAMS TRANSPORTATION, INC. (hereinafter called Great American), and WILLIAM M. GIBBONS, TRUSTEE OF THE PROPERTY OF CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY (hereinafter called the Railroad).

The Owner-Trustee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), providing for the sale to the Owner-Trustee of such units of railroad equipment (hereinafter called the Units) described in the Annex B thereto as are delivered to and accepted by the Owner-Trustee thereunder and the Security Document is being assigned to the Agent by the Builder.

The Owner-Trustee and Great American have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter, together with the amendments and supplements thereto, being called the Great American Lease), providing for the leasing by the Owner-Trustee to Great American of the Units.

Great American and the Railroad have entered into a Sublease of Railroad Equipment dated as of the date hereof (hereinafter called the Sublease), providing for the subleas-

ing by Great American to the Railroad of the Units leased under the Great American Lease.

Great American has assigned all its rights in, to and under the Sublease to the Owner-Trustee pursuant to an Assignment of Sublease and Agreement dated as of the date hereof (such assignment being hereinafter called the Sublease Assignment).

Great American, as principal, has delivered or caused to be delivered to the Owner-Trustee, as obligee, a surety bond issued by the Great American Insurance Company, as surety (such Company being hereinafter called the Surety, and such bond being hereinafter called the Bond), with respect to certain obligations of Great American under the Great American Lease.

The Bond provides that, upon the occurrence of certain conditions, if the Owner-Trustee (or its assigns) elects to proceed under the Bond, the Surety may elect to assume (or to have its permitted substitute under the Bond assume) the obligations of Great American under the Great American Lease or, if the Great American Lease has been terminated, to enter into a new lease with the Owner-Trustee pursuant to an Assumption and Assignment Agreement in the form attached to the Bond (such agreement being hereinafter called the Assumption Agreement, and the Great American Lease, the Sublease (together with the Sublease Assignment) and the Assumption Agreement, if executed and delivered by the Owner-Trustee and the Surety or its permitted substitute under the Bond, being hereinafter collectively called the Leases; and the Railroad as sublessee under the Sublease, Great American as lessee under the Great American Lease and the Surety or its permitted substitute under the Bond, in its capacity under the Assumption Agreement, if executed, being hereinafter sometimes individually called a Lessee and collectively the Lessees).

In order to provide security for the obligations of the Owner-Trustee under the Security Document and as an inducement to the Investors to invest in the Conditional Sale Indebtedness as defined in the Security Document, the Owner-Trustee agrees to assign for security purposes its rights in, to and under the Leases and the Bond to the Agent.

NOW, THEREFORE, in consideration of the payments to

be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 10 hereof, the Owner-Trustee hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment and performance of the Owner-Trustee's obligations under the Security Document, all the Owner-Trustee's right, title and interest, powers, privileges, and other benefits under the Leases and the Bond, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Owner-Trustee from the Lessees under or pursuant to the provisions of the Leases whether as rent, casualty payment, indemnity, liquidated damages, or otherwise, and the immediate right to receive and collect all amounts payable to or receivable by the Owner-Trustee from the Surety under and pursuant to the provisions of the Bond, other than (i) indemnity payments and increases in rental payments under § 6 and § 23 of the Great American Lease and § 6 and § 20 of the Sublease and (ii) payments under the Bond arising with respect to such indemnity payments (all such rights, title, interests, powers, privileges and other benefits, subject to the exclusion of (i) and (ii), being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in any Lease, and to do any and all other things whatsoever which the Owner-Trustee is or may become entitled to do under any Lease or the Bond, including, without limitation, election to proceed under Paragraph 1(b) of the Bond. In furtherance of the foregoing assignment, the Owner-Trustee hereby irrevocably authorizes and empowers the Agent in its own name, or in the name of its nominee, or in the name of the Owner-Trustee or as its attorney, to execute and deliver the Assumption Agreement, to ask, demand, sue for, collect and receive any and all Payments to which the Owner-Trustee is or may become entitled under the Leases and the Bond, and to enforce compliance by the Lessees and Surety with all the terms and provisions thereof.

The Agent agrees to accept for the account of the Owner-Trustee any Payments made by the Lessees or the Surety pursuant to the Leases or the Bond. To the extent received, the Agent will apply such Payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement. If the Agent shall not receive any

rental payment under the first paragraph of § 3 of the Great American Lease or the Sublease or any payment of Casualty Values under § 7 of the Great American Lease or the Sublease when due, the Agent shall promptly notify the Owner-Trustee, the Owner and Great American by telegraphic communication at the address set forth in the Participation Agreement. Failure to so notify the Owner-Trustee, the Owner or Great American shall not affect the rights and remedies of the Agent hereunder or under the Security Document.

2. This Assignment is executed only as security for the obligations of the Owner-Trustee under the Security Document and, therefore, the execution and delivery of this Assignment shall not subject the Agent to, or transfer, or pass, or in any way affect or modify the liability of the Owner-Trustee under the Great American Lease or the Assumption Agreement (if executed and delivered) or of Great American under the Sublease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Owner-Trustee under the Great American Lease and the Assumption Agreement (if executed and delivered) to Great American or the Surety or its permitted substitute under the Bond, as the case may be, and of Great American under the Sublease to the Railroad shall be and remain enforceable by Great American, the Surety or its permitted substitute under the Bond and the Railroad, as the case may be, and their respective successors and assigns, against, and only against, the Owner-Trustee, in the case of the Great American Lease and the Assumption Agreement (if executed and delivered) and Great American, in the case of the Sublease, or persons other than the Agent.

3. To protect the security afforded by this Assignment, subject to the provisions of Paragraph 10 hereof, the Owner-Trustee agrees as follows:

(a) The Owner-Trustee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which each Lease provides are to be performed by the Owner-Trustee; without the written consent of the Agent, the Owner-Trustee will not anticipate the rents under any Lease or waive, excuse, condone, forgive or in any manner release or discharge any Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by any such Lessee which are intended to satisfy the obligations of the Owner-Trustee under the Security Document, includ-

ing, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement so amending, modifying or terminating any Lease and the Owner-Trustee agrees that any such amendment, modification or termination thereof without such consent shall be void.

(b) Should the Owner-Trustee fail to make any payment or to do any act which this Assignment requires the Owner-Trustee to make or do, then the Agent, but without obligation so to do, after first making written demand upon the Owner-Trustee and affording the Owner-Trustee a reasonable period of time within which to make such payment or do such act, but without releasing the Owner-Trustee from any obligation hereunder, may make or do the same in such manner and to such extent as the Agent may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Agent, and also the right to perform and discharge each and every obligation, covenant and agreement of the Owner-Trustee contained in any Lease; and in exercising any such powers, the Agent may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Owner-Trustee will reimburse the Agent for such costs, expenses and fees; provided, however, that the obligations of the Owner-Trustee to make reimbursements under this Paragraph 3 are subject to the last paragraph of Article 4 of the Security Document.

4. Subject to the provisions of Paragraph 10 hereof, the Owner-Trustee does hereby constitute the Agent the Owner-Trustee's true and lawful attorney, irrevocably, with full power (in the name of the Owner-Trustee, 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 Leases and the Bond to which the Owner-Trustee is or may become entitled, to enforce compliance by the Lessees and the Surety with all the terms and provisions of the Leases and the Bond, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Agent may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Owner-Trustee's obligations under the Security Document and Participation Agreement, this Assignment and all rights herein assigned to the Agent shall terminate, and all estate, right, title and interest of the Agent in and to the Leases and the Bond shall revert to the Owner-Trustee without further act or deed, but the Agent shall execute and deliver such documents as the Owner-Trustee may reasonably request in order to confirm, or make clear upon public records, such termination and/or reversion.

6. The Owner-Trustee will, from time to time, do and perform any other act and will execute, acknowledge, and deliver any and all further instruments required by law or reasonably requested by the Agent in order to confirm or further assure the interests of the Agent hereunder.

7. The Agent may assign all or any of the rights assigned to it hereby or arising under the Leases and the Bond, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder. The Agent will give written notice to the Owner-Trustee and each Lessee of any such assignment.

8. This Assignment shall be governed by the laws of the State of Utah, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

9. The Owner-Trustee shall cause copies of all notices received in connection with the Leases and the Bond and all payments thereunder to be promptly delivered or made to the Agent at its address set forth in Article 20 of the Security Document, or at such other address as the Agent shall designate.

10. The Agent hereby agrees with the Owner-Trustee that (i) so long as no event of default, or any event which with lapse of time or notice or both would constitute such an event of default, under the Security Document has occurred and is then continuing, the Agent will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Owner-Trustee to the

Agent by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, the right to execute and deliver the Assumption Agreement as attorney for the Owner-Trustee as provided in Paragraph 1 hereof and the right to elect to proceed under the Bond pursuant to Paragraph 1(b) thereof, that (ii) subject to the terms of the Leases, the Bond and the Security Document, the Owner-Trustee may, so long as no event of default or event which with notice or lapse of time or both would constitute such an event of default under the Security Document has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges, and remedies arising out of subparagraph (a) of the first paragraph of § 10 of the Great American Lease and the Sublease and that (iii) if an Event of Default under the Great American Lease constituting a Bonded Default under the Bond shall have occurred and be continuing, the Agent shall, within ten days of receipt of the written request of the Owner-Trustee so to do, give the required notice to the Surety of election to proceed under the Bond pursuant to Paragraph 1(b) thereof and, if the Agent shall fail to do so, the Owner-Trustee may give such required notice; provided, however, the Owner-Trustee shall not, without the prior written consent of the Agent, terminate any Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of subparagraph (b) of said § 10.

11. No recourse shall be had in respect of any obligation due under this Assignment, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Owner-Trustee, the Agent, any Investor or the Owner, 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, or beneficiaries being forever released as a condition of and as consideration for the execution of this Assignment.

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 Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by the Owner-Trustee, or for the purpose or with the inten-

tion of binding the Owner-Trustee personally but are made and intended for the purpose of binding only the Trust Estate (as defined in the Trust Agreement) and this Assignment is executed and delivered by the Owner-Trustee solely in the exercise of the powers expressly conferred upon the Owner-Trustee as Owner-Trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Owner-Trustee or the Owner on account of any representation, undertaking or agreement hereunder of the Owner-Trustee, or the Owner, either expressed or implied, except for their respective obligations under the proviso to the last paragraph of Article 12 of the Security Document and subparagraph (a) of the third paragraph of Article 4 of the Security Document; all such personal liability, if any, being expressly waived and released by the Agent and by all persons claiming by, through or under the Agent; provided, however, that the Agent or any person claiming by, through or under the Agent, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names, by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

FIRST SECURITY STATE BANK,
not in its individual capacity,
but solely as Owner-Trustee,

by

_____
Authorized Officer

[CORPORATE SEAL]

Attest:

_____
Authorized Officer

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity,
but solely as Agent,

by

_____
Authorized Officer

[SEAL]

Attest:

_____
Authorized Officer

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and 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.

Notary Public

[NOTARIAL SEAL]

My Commission Expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its By-laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Notary Public

[NOTARIAL SEAL]

My Commission Expires

LESSEE'S (GREAT AMERICAN'S) CONSENT AND AGREEMENT

The undersigned, GAMS TRANSPORTATION, INC., a corporation duly incorporated under the laws of the State of Ohio, the Lessee named in the Great American Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement (hereinafter called the Assignment), and the Sublessor named in the Sublease and Sublease Assignment referred to in the Assignment (hereinafter collectively called the Sublease) hereby acknowledges receipt of a copy of the Assignment, consents to all the terms and conditions of the Assignment and agrees:

(1) subject to the terms and conditions of the Assignment, to pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease and assigned to the Agent by the Assignment (which moneys are hereinafter called the Payments) due and to become due to First Security State Bank, not in its individual capacity, but solely as Owner-Trustee for General Electric Credit Corporation (hereinafter called the Owner-Trustee) under the Lease in respect of the Units leased thereunder, directly to the First Security Bank of Utah, N.A., as agent (hereinafter called the Agent) under the Participation Agreement referred to in the Assignment, to be applied as provided in the first paragraph of Paragraph 10 of the Participation Agreement, to its address at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) subject to the terms and conditions of the Assignment, that the Agent 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 and the Sublease as though the Agent were named therein as the Owner-Trustee and the Sublessor, respectively;

(3) that the Agent shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease, the Sublease or otherwise;

(4) that neither the Lease nor the Sublease (except as permitted under the Sublease Assignment referred to in the foregoing Assignment) shall, without the prior written consent of the Agent, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in any alteration or impairment of the obligations of Great American under the Lease or the Sublease which are intended to satisfy the obligations of the Owner-Trustee under the Security Document, the obligations of the Owner-Trustee under the Assignment or the obligations of Great American under this Consent and Agreement or of any of the rights created by any thereof; and

(5) that it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Security Document and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Consent and Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Ohio and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of July 20, 1979

GAMS TRANSPORTATION, INC.,

by

_____

Authorized Officer

[CORPORATE SEAL]

Attest:

_____

Authorized Officer

Accepted:

FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity, but solely as agent under the Participation Agreement referred to above,

by

_____
Authorized Officer

[SEAL]

Attest:

_____
Authorized Officer

LESSEE'S (RAILROAD'S) CONSENT AND AGREEMENT

On March 17, 1975, the Chicago, Rock Island and Pacific Railroad Company, Debtor, filed a petition for reorganization under Section 77 of the Bankruptcy Act in the United States District Court for the Northern District of Illinois and such petition was duly approved as properly filed by order entered on such date by such Court and on April 4, 1975, the undersigned William M. Gibbons was duly qualified as Trustee of the Property of the Chicago, Rock Island and Pacific Railroad Company, Debtor. The undersigned, the Sublessee named in the Sublease and Sublease Assignment and Consent and Agreement attached thereto referred to in the foregoing Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement (hereinafter called the Assignment and the Sublease, the Sublease Assignment, and the Consent and Agreement attached thereto being hereinafter collectively called the Sublease), hereby acknowledges receipt of a copy of the Assignment, consents to all the terms and conditions of the Assignment and agrees that:

(1) subject to the terms and conditions of the Assignment, to pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Sublease and assigned to the Agent by the Assignment (which moneys are hereinafter called the Payments) due and to become due to the First Security State Bank, not in its individual capacity, but solely as Owner-Trustee for General Electric Credit Corporation (hereinafter called the Owner-Trustee) under the Lease, or to GAMS Transportation, Inc. (hereinafter called the Sublessor), under the Sublease, in respect of the Units leased thereunder, directly to the First Security Bank of Utah, N.A., as agent (hereinafter called the Agent) under the Participation Agreement referred to in the Assignment, to be applied as provided in the first paragraph of Paragraph 10 of the Participation Agreement, to its address at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) subject to the terms and conditions of the Assignment, that the Agent 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 Sublease as though the Agent were named therein as the Sublessor;

(3) the Agent shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Sublease or otherwise;

(4) if an Event of Default or an event which with notice or lapse of time or both would constitute such an Event of Default under the Lease referred to in the foregoing Assignment shall have occurred and be continuing, the Sublease shall not, without the prior written consent of the Agent, be amended, terminated (other than pursuant to the second paragraph of § 4 thereof) or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in any alteration or impairment of the obligations of the undersigned under the Sublease which are intended to satisfy the obligations of the Owner-Trustee under the Security Document, the obligations of the Owner-Trustee under the Assignment, the obligations of the Sublessor under the Sublease Assignment or the obligations of the undersigned under this Consent and Agreement or of any of the rights created by any thereof; and

(5) it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Security Document and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof.

This Consent and Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of

Illinois and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of July 20, 1979

WILLIAM M. GIBBONS,

_____ [Seal]
As TRUSTEE OF THE PROPERTY
OF CHICAGO, ROCK ISLAND AND
PACIFIC RAILROAD COMPANY,
and not individually

Witness:

_____

Accepted:

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity
but solely as agent under
the Participation Agreement
referred to above,

by

_____
Authorized Officer

[SEAL]

Attest:

_____
Authorized Officer

SURETY'S CONSENT AND AGREEMENT

The undersigned, GREAT AMERICAN INSURANCE COMPANY, a corporation duly incorporated under the laws of the State of Ohio, the Surety named in the Bond (hereinafter called the Bond) referred to in the foregoing Assignment of Lease, Reassignment of Sublease, Assignment of Surety Bond and Agreement (hereinafter called the Assignment), and the party which may execute and deliver the Assumption Agreement referred to in the foregoing Assignment, hereby acknowledges receipt of a copy of the Assignment, consents to all the terms and conditions of the Assignment and agrees:

(1) subject to the terms and conditions of the Assignment, to pay or cause to be paid all payments, rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Assumption Agreement (if executed and delivered) and the Bond and assigned to the Agent by the Assignment (which moneys are hereinafter called the Payments) due and to become due to First Security State Bank, not in its individual capacity, but solely as Owner-Trustee for General Electric Credit Corporation (hereinafter called the Owner-Trustee) under the Bond and the Assumption Agreement (if executed and delivered), directly to the First Security Bank of Utah, N.A., as agent (hereinafter called the Agent) under the Participation Agreement referred to in the Assignment, to be applied as provided in the first paragraph of Paragraph 10 of the Participation Agreement, to its address at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department (or to such other address as may be furnished in writing to the undersigned by the Agent);

(2) subject to the terms and conditions of the Assignment, that the Agent 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 Bond and the Assumption Agreement (if executed and delivered) as though the Agent were named therein as the Owner-Trustee;

(3) that the Agent shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Bond or

the Assumption Agreement (if executed and delivered) or otherwise;

(4) that neither the Bond nor the the Assumption Agreement (if executed and delivered) shall, without the prior written consent of the Agent, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in any alteration or impairment of the obligations of the Surety under the Bond or the Assumption Agreement (if executed and delivered);

(5) that it will (i) execute, deliver and/or furnish all notices, certificates, communications, instruments, agreements, legal opinions and other documents and papers required to be executed, delivered and/or furnished by it (or its counsel) pursuant to the provisions of the Bond and the Assumption Agreement (if executed and delivered) and (ii) do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of any thereof; and

(6) that if the Assumption Agreement is executed by its substitute permitted under the Bond, it will cause such substitute to execute and deliver a Consent and Agreement containing terms substantially similar to the terms of this Consent.

This Consent and Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Ohio and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of July 20, 1979

GREAT AMERICAN INSURANCE COMPANY,

by

_____
Authorized Officer

[CORPORATE SEAL]

Attest:

_____
Authorized Officer

Accepted:

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity
but solely as agent under the
Participation Agreement referred
to above,

by _____
Authorized Officer

[SEAL]

Attest:

_____
Authorized Officer