

LEASE OF RAILROAD EQUIPMENT dated as of February 1, 1974, between BURLINGTON NORTHERN INC. (hereinafter called the Lessee) and ABI LEASING CORP. (hereinafter called the Lessor).

In consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the units of railroad equipment described in Schedule A hereto to the Lessee upon the following terms and conditions:

SECTION 1. Delivery and Acceptance of Units. The Lessor will cause each Unit to be delivered to the Lessee at Novi, Michigan. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance and delivery (hereinafter called the Certificate of Delivery), stating that such Unit has been inspected and accepted on behalf of the Lessee on the date of such Certificate of Delivery and is marked in accordance with §4 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

The Lessee does hereby assign and set over unto the Lessor all of the Lessee's rights against (but not of its duties or obligations to) the Manufacturer in connection with the leased Units. The Lessee shall at all times be and remain solely liable for the performance of all duties and obligations under all purchase contracts of any nature between the Lessee and the Manufacturer unless, until and to the extent discharged by the Lessor.

SECTION 2. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 14 consecutive semi-annual payments, payable on February 15 and August 15 in each year, commencing with August 15, 1974 (or if such date is not a business day, on the next succeeding business day), each semi-annual rental payment shall be in an amount equal to 8.83755% of the total purchase price of the Units accepted under this Lease. The rental payable on August 15, 1974 shall be an amount equal to 8.83755% of the purchase price of each Unit accepted under this Lease less an amount equal to the product of (X) the purchase price of each Unit accepted under this Lease, times (Y) .017%, times (Z) the number of days elapsed from February 15, 1974 to and including the date of final settlement and payment for each such Unit between the Lessor and the Manufacturer.

This Lease is a net lease and the Lessee shall not be

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entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency, 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. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever unless such amounts paid by the Lessee hereunder shall be in excess of the amounts actually due and payable pursuant to the terms of this Lease.

SECTION 3. Term of Lease. The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§ 6, 9 and 12 hereof, shall terminate on the date on which the final semi-annual payment of rent in respect thereof is due hereunder.

SECTION 4. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or, in the case of any Unit not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the name of the Lessor followed by the word "Owner" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's title to and property in such Unit and the rights of the Lessor under this Lease. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace promptly any markings which may

be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names or initials or other insignia of the Lessee or its affiliates.

SECTION 5. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal, or foreign taxes (other than any United States federal income tax [and, to the extent that the Lessor receives credit therefor against its United States federal income tax liability, any foreign income tax] payable by the Lessor in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts or gross receipts taxes [other than gross receipts taxes in the nature of sales or use taxes], up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Lease or any sale rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor in and to any Unit or its interests or rights under this Lease; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the

nonpayment thereof does not, in the opinion of the Lessor, adversely affect the title, interests or rights of the Lessor in and to any of the Units. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor.

In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interest of the Lessor in such Units or notify the Lessor of such requirement and make such reports in such manner as shall be satisfactory to the Lessor.

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

SECTION 6. Payment for Casualty Occurrences. In the event that any Unit shall be or become worn out, lost, stolen, destroyed or, in the opinion of the Lessee, irreparably damaged, or taken or requisitioned by condemnation or otherwise rendered permanently unfit from any cause whatsoever (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease, the Lessee shall, within ten days after it shall have determined that such Unit has suffered a Casualty Occurrence fully notify the Lessor in writing in regard thereto. On the rental payment date listed on the schedule set out below next succeeding such notice, the Lessee shall pay to the Lessor an amount equal to the Casualty Value (as hereinafter defined) of such Unit. Effective on the rental payment date preceding such notice or February 15, 1974 if such notice is given prior to August 15, 1974, rental for such Unit shall cease to accrue. Upon making payment of the Casualty Value by the Lessee in respect of any Unit the term of this Lease as to such Unit shall terminate, and (except in the case of the loss, theft or complete destruction of the Unit) the Lessor shall be entitled to recover possession of such Unit.

The Casualty Value of each Unit as of any rental payment date shall be such payment as is required by Section 16 of the lease plus the product of the Purchase Price of such Unit times the appropriate percentage set forth opposite each date:

<u>Rental Payment Date</u>	<u>Percentage of Purchase Price</u>
8/15/74	106.50567
2/15/75	96.82416
8/15/75	86.50285
2/15/76	82.54104

<u>Rental Payment Date</u>	<u>Percentage of Purchase Price</u>
8/15/76	78.19538
2/15/77	73.50285
8/15/77	68.45173
2/15/78	63.06984
8/15/78	57.34600
2/15/79	51.30063
8/15/79	44.92284
2/15/80	38.22696
8/15/80	31.20224
2/15/81	23.83755

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

SECTION 7. Annual Reports. On or before June 1 in each year, commencing with the year 1975, the Lessee shall furnish to the Lessor an accurate statement (a) setting forth the amount, description and numbers of all Units then leased hereunder, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement) and such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request and (b) stating that, in the case of all Units repaired or repainted during the period covered by such statement, the numbers and the markings required by §4 hereof have been preserved or replaced. The Lessor shall have the right, by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Agreement.

SECTION 8. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; and Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee. The Lessee's delivery of a Certificate of Delivery shall be conclusive evidence as between the Lessee and the Lessor that all Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees 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 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 or replacement of or addition to any Unit, the Lessee will conform therewith, at its own expense; provided, however, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor, adversely affect the title of the Lessor in and to any of the Units.

The Lessee agrees that it will at all times maintain each Unit in good order and repair at its own expense.

Any and all additions to any Unit and any and all parts installed on and additions and replacements made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance shall immediately be vested in the Lessor.

The Lessee agrees to indemnify, protect and hold harmless the Lessor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in §§ 10, 13 and 15 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease.

The Lessor hereby appoints and constitutes the Lessee as its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner

of the Units against any party whomsoever, including, but not limited to, manufacturers or contractors in respect of the Units. The costs and expenses incurred by the Lessee, including attorneys' fees, in connection with any recovery, shall first be deducted from such recovery, and the balance, if any, shall be distributed between the Lessor and the Lessee, as their interests may appear.

SECTION 9. Default. If, during the continuance of this Lease, one or more of the following events (each such event being hereinafter sometimes called an Event of Default) shall occur:

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

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

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

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

E. any other proceeding shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in

force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

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

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all 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 hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purpose whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period).

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

The failure of the Lessor to exercise the rights granted it

hereunder upon 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.

SECTION 10. Return of Units Upon Default. If this Lease shall terminate pursuant to §9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith store such Units on the property of the Lessee as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such property at the risk of the Lessee until such Units have been sold, leased or otherwise disposed of by the Lessor; and

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

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same; provided, however, that the Lessee shall not be liable except in the case of negligence of the Lessee or of its employees or agent for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

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

SECTION 11. Assignment; Possession and Use. This Lease

shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder shall inure to the benefit of the Lessor's assigns. Whenever the term Lessor is used in this Lease it shall apply and refer to each such assignee of the Lessor,

So long as the Lessee shall not be in default under this Lease the Lessee shall be entitled to the possession and use of the Units, in accordance with the terms of this Lease but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or resulting from claims against the Lessor not related to the ownership of the Units) upon or with respect to any Unit (other than upon or with respect to the leasehold rights of the Lessee hereunder in and to the Units) including any accession thereto or the interest of the Lessor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to sublease the Units to any railroad corporate incorporated under the laws of any state of the United States of America or the District of Columbia; provided, however, that the rights of any such sublessee are made expressly subordinate to the rights and remedies of the Lessor under this Lease.

Nothing in this §11 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 railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have been duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger or consolidation, be in default under any provision of this Lease.

SECTION 12. Purchase and Renewal Options. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than three months prior to the end of the original term of this Lease or such original term as extended in the manner hereinafter set forth, as the case may be, (A) elect to extend the term of this Lease in respect of all, but not fewer than all, of such Units then covered by this Lease, for three additional terms of one year each commencing on the scheduled expiration of such original or extended term, as the case may be, at a rental payable in semi-annual payments in arrears, each in an amount equal to the "Fair Rental Value" of such Units, such semi-annual payments to be made on August 15 and February 15 in each year of the applicable extended term and (B) to purchase all but not fewer than all of the Units then covered by this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of such term original or extended term.

Fair Market Value shall be determined on the basis of and shall be equal to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

Fair Rental Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee-user (other than a lessee-user currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

If on or before two months prior to the expiration of the term of this Lease, or extended term hereof, as the case may be, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value or the Fair Rental Value of the Units,

such value shall be determined in accordance with the foregoing definitions by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fee of the Appraiser shall be borne by the Lessee.

SECTION 13. Return of Units upon Expiration of Term. The Lessor intends to retain the Units for re-lease or sale at the expiration of the term of this Lease. As soon as practicable on or after the expiration of the term of this Lease with respect to any Unit, the Lessee will (unless the Unit is sold to the Lessee), at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such property of the Lessee as the Lessee may designate, or, in the absence of such designation, as the Lessor may select, and permit the Lessor to store such Unit on such property for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor; the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease the Lessor shall elect to abandon, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. The Lessor shall execute and deliver to the Lessee a bill of sale

or bills of sale transferring to the Lessee, or upon its order, the Lessor's title to and property in any Unit abandoned by it pursuant to the immediately preceding sentence. The Lessee shall have no liability to the Lessor in respect of any Unit abandoned by the Lessor after termination of the Lease; provided, however, that the foregoing clause shall not in any way relieve the Lessee of its obligations pursuant to §6 hereof to make payments equal to the Casualty Value of any Unit experiencing a Casualty Occurrence while this Lease is in effect.

SECTION 14. Opinion of Counsel. The Lessee will deliver to the Lessor the written opinion of counsel for the Lessee, addressed to the Lessor in scope and substance satisfactory to the Lessor to the effect that:

A. the Lessee is a corporation legally incorporated, validly existing and in good standing under the laws of its state of incorporation (specifying the same) with adequate corporate power to enter into this Lease;

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

C. this Lease has been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recording will protect the Lessor's interests in and to the Units and no filing, recording or deposit (or giving of notice) with any other federal, state or local government is necessary in order to protect the interests of the Lessor in and to the Units;

D. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease;

E. the entering into and performance of this Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound;

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein; provided, however, the such liens may attach to the leasehold rights of the Lessee hereunder in and to the Units; and

G. title to the Units is validly vested in the Lessor free and clear of all claims, liens and encumbrances of any nature except only the rights of the Lessee under this Lease.

SECTION 15. Recording; Expenses. The Lessee will cause this Lease to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, re-register, deposit and redeposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection of the Lessor's interests in the Units, or for the purpose of carrying out the intention of this Lease; and the Lessee will promptly furnish to the Lessor evidences of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor. This Lease shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

The Lessor and the Lessee will each bear the respective fees and disbursements, if any, of their respective counsel.

SECTION 16. Federal Income Taxes. The Lessor, as the owner of the Units, shall be entitled to such deductions, credits and other benefits as are provided by the Code to an owner of the property, including (without limitation) an allowance for the Investment Credit and the Depreciation Deduction with respect to the Units to the extent so provided.

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 return or other documents inconsistent with the foregoing and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof. Lessee agrees to keep and make available for inspection and copying by Lessor such records as will enable Lessor to determine whether it is entitled to the full benefit of the Investment Credit and the Depreciation Deduction with respect to the Units.

The Lessee represents and warrants that (i) at the time the Lessor becomes the owner of the Units, the Units will constitute "new Section 38 property" within the meaning of Section 48(b) of the Code, (ii) at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning

of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor and (iii) the Lessee will not at any time during the term of this Lease, use or fail to use any Unit in such a way as to disqualify it as "Section 38 property" within the meaning of Section 48(a) of the Code.

If for any reason the Lessor or any affiliated group of which it is a part shall lose, or shall not have, or shall lose the rights to claim, or shall suffer a disallowance of or shall be required to recapture, all or any portion of the Investment Credit, or the Depreciation Deduction (hereinafter each called a Benefit) with respect to all or part of any Unit, then the rental rate applicable to such Unit set forth in §2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Benefit has not been claimed, or (if claimed and then disallowed or required to be recaptured) on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit under this Lease to equal the net return in respect of such Unit under this Lease that would have been available if the Lessor had been entitled to utilization of all or such portion of the Benefit which was not claimed or was disallowed or required to be recaptured, and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the disallowance, recapture or loss of all or any portion of the Benefit; provided, however, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or shall have suffered a disallowance of, or shall have been required to recapture all or any portion of any Benefit with respect to all or part of such Unit as a direct result of the occurrence of any of the following events ("Excluded Events"):

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

(ii) the failure of the Lessor to claim the Investment Credit or the Depreciation Deduction as applicable, in its federal income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming any Benefit; or

(iii) the failure of the Lessor to have sufficient liability for tax against which to credit such Investment Credit or sufficient income to benefit from the Depreciation Deduction.

The Lessor agrees that if, in the opinion of the Lessee's tax counsel (herein referred to as Counsel), a bona fide claim to all or a portion of any Benefit (with respect to part or all of any Unit) exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment pursuant to a notice of disallowance or may make such payment and then sue for a refund. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

If, for any Unit, there shall be a Casualty Occurrence as defined in §6 hereof which shall result in the loss, in whole or in part, of the investment credit or Depreciation Deduction ("Benefit" herein) the Lessee shall, upon request of the Lessor, pay to the Lessor in addition to the Casualty Value of such Unit as described in §6 hereof, an amount which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit under this Lease to equal the net return in respect of such Unit under this Lease that would have been available if the Lessor had been entitled to utilization of all or such portion of the Benefit which was not claimed or was disallowed or required to be recaptured, and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the disallowance, recapture or loss of all or any portion of the Benefit; provided, however, that such payments shall not be made if the Lessor shall have lost, or shall not have, or shall have lost the right to claim or shall have suffered a disallowance of, or shall have been required to recapture all or any portion of any Benefit with respect to all or part of the Unit as a result of any of the events described in subparagraphs (i) - (iii) above.

SECTION 17. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, interest at the rate of 9% on overdue rentals for the period of time during which they are overdue.

SECTION 18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mail first-class postage prepaid, addressed as follows:

- (a) if to the Lessor, at 420 American National Bank

Building, 419 North Robert Street, St. Paul, Minnesota
55101, attention of Vice-President,

(b) if to the Lessee, at 176 East Fifth Street,
St. Paul, Minnesota 55101, attention of Assistant Vice
President, Financial Planning Division,

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

SECTION 19. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

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

SECTION 20. Execution. This Lease may be executed in several counterparts and such counterparts together shall constitute but one and the same instrument. Although this Lease is dated as of February 1, 1974, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

SECTION 21. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Minnesota; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

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

ABI LEASING CORP.

[Corporate Seal]

By J. E. Barry
Vice President

ATTEST:

James W. Reagan
~~Secretary~~
Treasurer

BURLINGTON NORTHERN INC.

[Corporate Seal]

By W. K. Duse
Vice President

ATTEST:

Edward H. [Signature]
Secretary

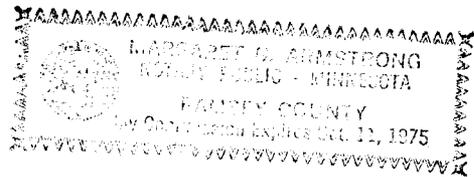
STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

On this *28th* day of *February*, 1974, before me personally appeared *J. E. Barry*, to me personally known, who, being by me duly sworn, says that he is a Vice President of ABI LEASING CORP., that the seal 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.

Margaret Armstrong

[Notarial Seal]

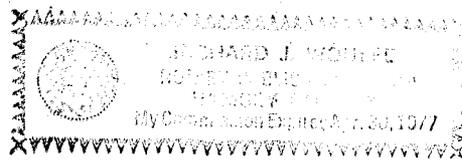
STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)



On this *28th* day of *February*, 1974, before me personally appeared *W.K. Bush*, to me personally known, who, being by me duly sworn, says that he is a Vice President of BURLINGTON NORTHERN 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.

Richard J. Wouffe

[Notarial Seal]



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SCHEDULE A

<u>Quantity</u>	<u>Description</u>	<u>Lessee's Road Numbers (Inclusive)</u>
30	Tri-Level Auto Racks equipped for Datsun Service at an estimated cost of \$14,111.00 each	BN 1207-1236