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INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT
Dated as of August 1, 1974

Among

THE MANUFACTURER NAMED HEREIN,

MILWAUKEE LAND COMPANY,
Vendee,

and

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,
Guarantor.

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CONDITIONAL SALE AGREEMENT

Conditional Sale Agreement, dated as of August 1, 1974 among the corporation named as Manufacturer at the foot of this agreement (the "Manufacturer"), **Milwaukee Land Company,** an Iowa corporation (the "Vendee"), and **Chicago, Milwaukee, St. Paul and Pacific Railroad Company,** a Wisconsin corporation (the "Guarantor").

Whereas, the Manufacturer is willing to construct, sell and deliver to the Vendee, and the Vendee is willing to purchase, the railroad equipment described in Schedule A attached hereto (collectively the "Equipment" and individually an "Item of Equipment"); and

Whereas, the Vendee is entering into an equipment lease (the "Lease") dated as of the date hereof with **FRANKLIN SERVICE CORP.** (the "Lessee") substantially in the form attached as Annex I hereto providing, among other things, for the leasing, subject to this Agreement, of the Equipment by the Vendee to the Lessee; and

Whereas, the Lessee is entering into an equipment lease (the "Sublease") dated as of the date hereof with the Guarantor substantially in the form attached as Annex II hereto providing, among other things, for the leasing, subject to this Agreement, of the Equipment by the Lessee to the Guarantor; and

Whereas, the Guarantor is willing to guarantee to the Manufacturer the due and punctual payment of all sums payable by, and the due and punctual performance of all other obligations of, the Vendee under this Agreement and has joined in this Agreement for the purpose of setting forth the terms and conditions of such guaranty and making certain further agreements as hereinafter set forth;

Now, Therefore, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

Section 1. Construction and Sale.

The Manufacturer will construct, sell and deliver to the Vendee, and the Vendee will purchase from the Manufacturer and accept delivery of and pay for as hereinafter provided, the Equipment, each Item of which shall be constructed in accordance with the applicable specifications heretofore agreed upon by the Guarantor and the Manufacturer, with such modifications thereof as may be agreed upon in writing by the Guarantor and the Manufacturer (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design and quality

of equipment and material in such Items shall conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new equipment, and to all standards recommended by the Association of American Railroads, interpreted as being applicable to new railroad equipment of the character of such Items as of the date of this Agreement.

Section 2. Delivery.

2.1. The Manufacturer will deliver the various Items of Equipment to the Vendee in accordance with the applicable delivery schedule set forth in Schedule A hereto; provided, however, that the Manufacturer shall have no obligation to deliver any Item of Equipment hereunder subsequent to the filing by or against the Guarantor of a petition for reorganization under Section 77 of the Bankruptcy Act.

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

2.3. Notwithstanding the foregoing provisions of this Section 2, the Vendee shall not be obligated hereunder to accept and pay for any Equipment not delivered and accepted on or before June 1, 1975. Any Equipment not so delivered and accepted shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. In the event of any such exclusion the Manufacturer shall remain obligated to construct, sell and deliver to the Vendee or the Guarantor, and the Vendee and the Guarantor shall remain jointly and severally obligated to purchase from the Manufacturer, accept delivery of and pay for, any of the Equipment thus excluded from this Agreement, and the Guarantor, the Vendee and the Manufacturer shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not excluded herefrom, and the Manufacturer, the Vendee and the Guarantor shall further execute a separate agreement providing for the sale of such excluded Equipment by the Manufacturer to the Vendee or the Guarantor upon the same terms and conditions as those contained herein, modified only to the extent necessary to provide for full payment in cash upon delivery of the Equipment, either directly or indirectly by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Guarantor may determine and as may be reasonably satisfactory to the Manufacturer.

2.4. The Equipment during construction shall be subject to inspection by an inspector or other authorized representative of the Vendee and the Guarantor. Acceptance of the Equipment by the Guarantor pursuant to the Sublease shall be deemed to be acceptance of the Equipment by the Vendee hereunder, and the Guarantor agrees to furnish the Certificate or Certificates of Acceptance under the Sublease to the Manufacturer in such number of counterparts as may be reasonably requested.

2.5. The Manufacturer shall bear the risk of loss of each Item of Equipment or damage thereto until delivery and acceptance hereunder. Upon delivery and acceptance hereunder of each of such Items of Equipment the Vendee shall bear the risk of loss of or damage to such Items.

Section 3. Purchase Price and Payment.

3.1. The base price per Item of Equipment, including freight charges, if any, to place of delivery, but exclusive of interest, insurance and all other charges, is as set forth in Schedule A hereto. The base price per Item of Equipment shall be subject to increase or decrease as may be agreed to in writing by the Manufacturer, the Vendee and the Guarantor, and the term "purchase price" as used herein shall mean the base price as so increased or decreased; provided that the purchase price for each Item of Equipment shall not exceed the maximum price provided therefor in Schedule A hereto provided further, however, that the aggregate purchase price for any Group (as hereinafter defined) of Equipment delivered hereunder may exceed the aggregate maximum price provided in Schedule A hereto of the Items of Equipment in such Group by an amount not greater than the amount, if any, by which the aggregate maximum price provided in Schedule A hereto of all Groups theretofore delivered exceeded the aggregate purchase price of such Groups.

3.2. Settlement shall be made between the Vendee and the Manufacturer for the purchase price of the Equipment on one or more Closing Dates (the Equipment settled for on each Closing Date being hereinafter called a "Group"). The term "Closing Date" with respect to each Group shall mean such date not more than ten business days following presentation by the Manufacturer to the Vendee of the invoice or invoices and the Certificate or Certificates of Acceptance with respect to the Group as shall be fixed by the Vendee by written or telegraphic notice delivered to the Manufacturer at least six business days prior to such designated date.

3.3. The Vendee hereby acknowledges itself to be indebted to the Manufacturer in the amount of and hereby promises to pay to the Manufacturer at the office of American National Bank and

Trust Company of Chicago, La Salle at Washington, Chicago, Illinois, or at the office of such other bank or trust company in the United States of America as the Manufacturer or its assignee shall designate for payment to it, the purchase price of the Equipment. Payment of the purchase price of each Group shall be made as follows:

(a) On each Closing Date an amount at least equal to 20% of the aggregate purchase price for all Items of Equipment in the Group for which settlement is then being made; and

(b) (i) with respect to all Groups an amount equal to the aggregate purchase price of each such Group less the amount paid pursuant to clause (a) above on the Closing Date with respect to such Group (said difference being hereinafter sometimes called the "Conditional Sale Indebtedness") plus interest on the unpaid balance thereof, at the rate of 11% per annum, from the Closing Date with respect to such Group (or, to the extent paid on January 2, 1975 under clause (ii) of this paragraph (b), from January 2, 1975), payable in 60 substantially equal installments, including both principal and interest, on each January 1, April 1, July 1 and October 1, commencing April 1, 1975; and

(ii) with respect to each Group delivered prior to January 2, 1975, there shall be payable on January 2, 1975 an amount equal to interest on the Conditional Sale Indebtedness with respect to such Group from the Closing Date with respect to such Group (or, to the extent paid on November 11, 1974 under clause (iii) of this paragraph (b), from November 11, 1974) to January 2, 1975 at the rate of 11% per annum; and

(iii) with respect to each Group delivered prior to November 11, 1974, there shall by payable on November 11, 1974 an amount equal to interest on the Conditional Sale Indebtedness with respect to such Group from the Closing Date with respect to such Group to November 11, 1974 at a rate per annum equal to 120% of the minimum commercial lending rate charged by Continental Illinois National Bank and Trust Company of Chicago as in effect from time to time during such period.

3.4. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of Illinois or New York are authorized or required to close.

3.5. Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months. All

payments provided for in this Agreement shall be made by the Vendee 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.

3.6. The Vendee will pay interest at the rate of 12% per annum upon all unpaid balances of Conditional Sale Indebtedness and (to the extent legally enforceable) upon interest, after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

3.7. Except as provided in Section 6 hereof, the Vendee shall not have the privilege of prepaying any installment of the Conditional Sale Indebtedness prior to the date it becomes due hereunder.

3.8. All payments to be made by the Vendee hereunder will be free of expense to the Manufacturer for collection or other charges and will be free of expense to the Manufacturer with respect to the amount of any local, state, federal or foreign taxes (other than net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales or use taxes], excess profits and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by, this Agreement or any sale, use, leasing, subleasing, 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 Vendee assumes and agrees to pay on demand. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Manufacturer solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the title of the Manufacturer or result in a lien upon any part of the Equipment; provided, however, that the Vendee 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 Manufacturer, adversely affect the property or rights of the Manufacturer in or to the Equipment or otherwise under this Agreement. If any such impositions shall have been charged or levied against the Manufacturer directly and paid by the Manufacturer, the Vendee shall reimburse the Manufacturer upon presentation of an invoice therefor, and any amounts so paid by the Manufacturer shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Manufacturer shall have been legally liable with respect thereto

(as evidenced by an opinion of counsel for the Manufacturer) or unless the Vendee shall have approved the payment thereof.

Section 4. Title to the Equipment.

4.1. The Manufacturer shall and hereby does retain the full security title to and property in the Equipment until the Vendee shall have made all of the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee, the Lessee or the Guarantor as contemplated hereby. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

4.2. When and only when the Manufacturer shall have been paid the full indebtedness in respect of the purchase price of the Equipment, together with interest and all other payments as herein provided and all the Vendee's other obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Manufacturer, except that the Manufacturer, if requested by the Vendee so to do, will execute a bill or bills of sale of the Equipment releasing its security title thereto and property therein to the Vendee or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Vendee at its address specified in Section 20 hereof, and will execute in the same manner and deliver at the same place, for filing, registering, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment, and will pay to the Vendee any money paid to the Manufacturer, pursuant to Section 6 hereof and not theretofore applied as therein provided. The Vendee 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 bill or bills of sale 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 bill or bills of sale or to file such certificate within a reasonable time after written demand by the Vendee.

Section 5. Marking of Equipment.

The Vendee shall cause each Item of Equipment to be marked as required by Section 4 of the Sublease.

Section 6. Casualty Occurrences.

6.1. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the reasonable opinion of the Vendee or the Guarantor, irreparably damaged, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise or shall be removed by the Manufacturer pursuant to Section 12.1 (each such occurrence, except for any requisition which by its terms is indefinite or would not extend beyond January 1, 1990, being hereinafter called a "Casualty Occurrence"), prior to the payment of the indebtedness in respect of the purchase price of such Item, together with interest thereon and all other payments required hereby, the Vendee shall promptly (after it has knowledge of such Casualty Occurrence) and fully inform the Manufacturer in regard thereto. When any Item of Equipment suffers a Casualty Occurrence the Vendee, on the date of payment of the next succeeding installment of interest or of principal and interest on such indebtedness, shall pay to the Manufacturer the Casualty Payment of such Item as of the date of such payment. Each such payment shall be accompanied by notification from the Vendee that said payment constitutes a Casualty Payment.

6.2. The Manufacturer shall, immediately upon receipt thereof, apply the money deposited pursuant to Section 6.1 to the prepayment of the indebtedness in respect of the purchase price of the Equipment having suffered a Casualty Occurrence, plus interest then accrued on the portion thereof so prepaid, but without premium. The quarterly payments of the indebtedness in respect of the purchase price of the remaining Equipment and interest thereon, becoming due thereafter shall be redetermined on the basis of the amount of such indebtedness remaining unpaid and on the basis of the number of quarterly payments remaining immediately after such application.

6.3. Upon payment to the Manufacturer of the Casualty Payment in respect of an Item of Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such Item shall automatically pass to and vest in the Vendee without further transfer or action on the part of the Manufacturer.

6.4. The payment to be made to the Manufacturer in respect of each Item of Equipment having suffered a Casualty Occurrence (the "Casualty Payment") shall be an amount determined as of the

date the Casualty Payment is paid equal to that portion of the original purchase price thereof as is set forth in the Schedule of Casualty Payments attached hereto as Schedule B opposite such payment date, together with the installment of principal and interest (or of interest only, in the case of January 2, 1975) payable with respect to such Item on such payment date pursuant to Section 3.3(b)(i) or (ii), as the case may be. It is understood and agreed that the Casualty Payments set forth on Schedule B hereto have been computed on the basis of payment by the Vendee of 20% of the purchase price under Section 3.1(a) and that if the Vendee shall pay a greater portion of the purchase price for any Item of Equipment under Section 3.1(a) the Casualty Payment in respect of such Item will be computed in the same manner (but reflecting the increased payment by the Vendee) as that used in computing the Casualty Payments on Schedule B hereto.

6.5. In the event that prior to January 1, 1990, the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period ending on or before said date, the Vendee's duty to pay the indebtedness in respect of the purchase price thereof shall continue for the duration of such requisitioning or taking. The Vendee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for such requisition or taking of possession.

Section 7. Obligations of Guarantor.

7.1. The Guarantor, for value received, hereby unconditionally guarantees to the Manufacturer the due and punctual payment of the purchase price of the Equipment and interest thereon, and the due and punctual performance of all obligations of the Vendee under this Agreement and unconditionally guarantees to the Manufacturer that all sums payable by the Vendee under this Agreement will be promptly paid when due in accordance with the provisions of this Agreement, together with interest thereon as herein provided, whether at stated maturity or by declaration or otherwise, and in case of default by the Vendee in any such obligations or payment the Guarantor agrees punctually to perform or pay the same, irrespective of any enforcement against the Vendee of any of the rights of the Manufacturer hereunder.

7.2. The Guarantor hereby agrees that its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of this Agreement or any other circumstances which might otherwise constitute a legal or equitable discharge of a surety or guarantor or limit the

recourse of the Manufacturer against the Vendee. The Guarantor hereby waives diligence, presentment, demand for payment, protest, any notice of any assignment hereof in whole or in part or of any default hereunder and all notices with respect to this Agreement and all demands whatsoever hereunder. No waiver by the Manufacturer of any of its rights hereunder and no action by the Manufacturer to enforce any of its rights hereunder or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

7.3. The Guarantor hereby covenants and agrees with the Manufacturer, for the benefit of the Manufacturer, its successors and assigns, that, while any indebtedness in respect of the purchase price of the Equipment remains unpaid, the Guarantor will faithfully observe all the terms, covenants and conditions set forth in the Sublease and perform all obligations of the Guarantor thereunder, it being agreed that the undertakings of the Guarantor pursuant to the Sublease shall be deemed a part of this Agreement with the same force and effect as if set forth herein in full. The obligations of the Guarantor under the provisions of the preceding sentence shall not be affected by any termination of the Lease or the Sublease or the invalidity of either thereof, as between the parties thereto, for any reason but shall continue as though the Lease or the Sublease, as the case may be, continued in full force and effect until the indebtedness in respect of the purchase price of the Equipment, together with interest thereon, shall have been paid in full.

7.4. The Guarantor agrees that any insurance maintained pursuant to the Sublease shall include among the named beneficiaries the Vendee and the Manufacturer, as their respective interests may appear.

7.5. In the event that the Guarantor shall make any payments to the Manufacturer on account of its guaranty hereunder, the Guarantor hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Vendee or with respect to any of the Items of Equipment by reason of such payments, all such rights being hereby irrevocably released, discharged and waived by the Guarantor; provided, however, that after the payment by the Guarantor to the Manufacturer of all sums payable under this Agreement, the Guarantor shall, by subrogation, be entitled to the rights of the Manufacturer against the Vendee by reason of such payment, to the extent, but only to the extent, that the Vendee has received income and proceeds from the Equipment and has not applied such funds to the payment, in accordance with this Agreement, of sums payable by the Vendee to the Manufacturer hereunder.

Section 8. Reports and Inspections.

On or before May 1 in each year, commencing with the year 1975, the Guarantor will furnish to the Manufacturer, concurrently with the transmission thereof to the Lessee, copies of each and every report or statement to be furnished to the Lessee by the Guarantor pursuant to Section 12 of the Sublease. The Manufacturer shall have the right, by its agents, to inspect the Equipment and records of the Vendee and the Guarantor with respect thereto once in every year.

Section 9. Possession and Use.

9.1. The Vendee, so long as it shall not be in default under this Agreement, shall be entitled, from and after delivery of the Equipment by the Manufacturer to the Vendee, to the possession of the Equipment and the use thereof upon and subject to all the terms and conditions of this Agreement.

9.2. Without limiting any of the rights of the Vendee under Section 13 hereof, the Vendee may lease the Equipment to the Lessee or its assigns as permitted by, and for use as provided in, Section 17.3 of the Lease and the Lessee may lease the Equipment to the Guarantor or its assigns as permitted by, and for use as provided in Section 17 of the Sublease, provided, however, and the Guarantor hereby acknowledges, that the rights of the Guarantor and its permitted assigns under the Sublease are subordinate and junior in rank to the rights, and are subject to the remedies, of the Manufacturer under this Agreement. A copy of any such assignment by the Guarantor shall be furnished to the Manufacturer. Subject always to the provisions of Section 16 of the Lease, the Vendee hereby agrees that it will not exercise any of the remedies provided in Section 14 of the Lease unless it shall notify the Manufacturer in writing of its intended exercise thereof, and hereby further agrees to furnish to the Manufacturer, at its written request, copies of all summons, writs, processes and other documents served by it upon the Lessee or served by the Lessee upon it in connection therewith.

Section 10. Prohibition Against Liens.

10.1. The Vendee will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Vendee or its successors or assigns (other than the Lessee or its assigns [other than the Guarantor]) which, if unpaid, might become a lien or a charge upon any Item of Equipment equal or superior to the security title of the Manufacturer, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested by the Vendee in good faith and by appropriate

legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder.

10.2. 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.

Section 11. Indemnities.

11.1. The Vendee and the Guarantor jointly and severally agree to indemnify, protect and hold harmless the Manufacturer from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Manufacturer of security title to the Equipment, or out of the use and operation thereof during the period when security title thereto remains in the Manufacturer, and also agree that the Manufacturer shall be entitled to the benefit and protection of all indemnities of the Guarantor contained in Section 6 of the Sublease to the same extent and with the same force and effect as if said indemnities were set forth herein in full and the Manufacturer were expressly named in the Sublease as one of the parties entitled to the benefit and protection thereof. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the purchase price of the Equipment and the conveyance of the Equipment, as provided in Section 4.2 hereof, or the termination of this Agreement in any manner whatsoever.

11.2. As between the Manufacturer and the Vendee, the Vendee, after delivery to and acceptance by the Vendee pursuant to Section 2.4 hereof, will bear the 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 Item or of all the Equipment.

11.3. The Manufacturer for itself warrants that the Items of Equipment will be built in accordance with the Specifications therefor and warrants that the Items of Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Vendee or the Guarantor and not manufactured by the Manufacturer, in respect of which the Manufacturer hereby appoints and constitutes the Vendee and the Guarantor and each of them its agents and attorneys-in-fact to assert and enforce from time to time in the name of the

Manufacturer but for the account of the Vendee and the Guarantor as their interests may appear and in all cases at the sole cost and expense of the Vendee and the Guarantor whatever claims and rights the Manufacturer may have against the manufacturer of the specialty) or workmanship under normal use and service, the Manufacturer's obligation under this Section being limited to making good at its plant any part or parts of any such Item of Equipment which shall within the period specified in Schedule A hereto after the delivery of such Item of Equipment to the Vendee be returned to the Manufacturer with transportation charges prepaid and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective; provided, however, that this warranty shall not apply to (i) any components which shall have been repaired or altered unless repaired or altered by the Manufacturer or its authorized service representatives, if, in its judgment, such repairs or alterations affect the stability of any such Item of Equipment or (ii) any Item of Equipment which has been subject to misuse, negligence or accident. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS 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 MANUFACTURER, EXCEPT FOR ITS OBLIGATIONS HEREUNDER AS LIMITED HEREBY, AND THE MANUFACTURER DOES NOT ASSUME OR AUTHORIZE ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT EXCEPT AS AFORESAID. IN NO EVENT SHALL THE MANUFACTURER BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR COMMERCIAL LOSS. The Manufacturer reserves the right to make changes in the design of, or add any improvements to, any Item of Equipment at any time with the approval of the Vendee and the Guarantor without incurring any obligation to make similar changes or additions in respect of any other Item of Equipment previously delivered hereunder. The Manufacturer further agrees with the Vendee that acceptance of any Item of Equipment under Section 2.4 hereof shall not be deemed a waiver by the Vendee of any of its rights under this Section 11.3. The Guarantor and the Vendee agree with the Manufacturer that, so long as there has been no termination of the Lease or Sublease or Event of Default thereunder, the performance of the obligations of the Manufacturer to the Vendee under the foregoing warranty shall be deemed satisfactory if the performance of said obligation by the Manufacturer is satisfactory to the Guarantor.

Section 12. Patent Indemnities.

12.1. Except in cases of designs specified by the Guarantor and not developed or purported to be developed by the Manufacturer, and articles and materials specified by the Guarantor and not manufactured by the Manufacturer, the

Manufacturer agrees for itself to indemnify, protect and hold harmless the Vendee and the Guarantor 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 Vendee or the Guarantor because of the use in or about the construction or operation of any Item of Equipment, of any design, article or material which infringes or is claimed to infringe on or which is claimed to constitute contributory infringement with respect to any patent or other right. The Guarantor likewise will indemnify, protect and hold harmless the Manufacturer and the Vendee 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 Manufacturer or the Vendee because of the use in or about the construction or operation of any Item of Equipment, of any design specified by the Vendee or the Guarantor and not developed or purported to be developed by the Manufacturer, or article or material specified by the Vendee or the Guarantor and not manufactured by the Manufacturer, which infringes or is claimed to infringe on or which is claimed to constitute contributory infringement with respect to any patent or other right. In case any Item of Equipment is held to constitute infringement of any patent or other similar right in respect of which liability may be charged against the Manufacturer, and the use of any Item of Equipment is enjoined, the Manufacturer shall, at its own expense and at its option, either procure for the Vendee and the Guarantor the right to continue using such Item of Equipment or replace the same with non-infringing equipment, or modify it so it becomes non-infringing or remove such Item of Equipment and refund the entire purchase price therefor together with transportation charges. Without intending any limitation of the foregoing, the Manufacturer 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 Vendee every claim, right and cause of action which the Manufacturer has or hereafter shall have against the originator of any design or against the seller or sellers of any designs or articles or materials specified by the Vendee or the Guarantor purchased or otherwise acquired by the Manufacturer for use in or about the construction or operation of the Items of Equipment on the ground that any such design, article or material or operation thereof infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right and the Manufacturer further agrees to execute and deliver to the Vendee and the Guarantor all and every such further assurance as may be reasonably requested by the Vendee or the Guarantor, more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Manufacturer will give notice to the Vendee and the Guarantor of any claim known to the Manufacturer from which liability may be

charged against the Vendee or the Guarantor hereunder and the Guarantor and the Vendee will each give notice to the Manufacturer of any claim known to it from which liability may be charged against the Manufacturer hereunder.

12.2. The term "design" wherever used in this Agreement or in any assignment of this Agreement shall be deemed to include formulae, systems, processes and combinations.

12.3. The obligations and liabilities of the Manufacturer under this Section shall apply only to Equipment located and used in the continental United States, Canada and Mexico.

Section 13. Assignments.

13.1. The Vendee will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as contemplated by Section 9.2 hereof, transfer the right to possession of any Item of Equipment without first obtaining the written consent of the Manufacturer, which consent shall not be unreasonably withheld. No such sale, assignment or transfer shall subject the Manufacturer to any duties, obligations or liabilities whatsoever.

13.2. All or any of the rights, benefits and advantages of the Manufacturer under this Agreement, including the right to receive the payments herein provided to be made by the Vendee and the benefits arising from the undertakings of the Guarantor hereunder, may be assigned by the Manufacturer and reassigned by an assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Manufacturer from, any of the obligations of the Manufacturer to construct and to deliver the Equipment in accordance with the provisions hereof or to respond to its warranties and agreements contained herein, or relieve the Vendee or the Guarantor of their respective obligations to the Manufacturer hereunder.

13.3. Upon any such assignment by the Manufacturer either the assignor or the assignee shall give written notice to the Vendee and the Guarantor, 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 of the Manufacturer's right, security title and interest in and to the Equipment, or specific Items thereof assigned, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Vendee and the Guarantor, respectively, of the notification of any such assignment, all payments thereafter to be made by the Vendee or the Guarantor hereunder shall, to the extent so

assigned, be made to the assignee at the address of the assignee specified in the aforesaid notice.

13.4. The Vendee and the Guarantor recognize that it is the custom of railroad equipment manufacturers or sellers to assign agreements of this character and understand that the assignment of this Agreement, or of some or all of the rights of the Manufacturers hereunder, is contemplated. The Vendee and the Guarantor expressly represent, 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 Manufacturer hereunder, and for the purpose of inducing such acquisition, that in the event of such assignment by the Manufacturer as hereinbefore provided the rights of such assignee to the entire unpaid Conditional Sale Indebtedness in respect 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, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Manufacturer with respect to the Equipment or the delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Guarantor by the Manufacturer. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Guarantor, as the case may be, against and only against the Manufacturer.

13.5. In the event of any such assignment or successive assignments by the Manufacturer of security title to the Equipment and of the Manufacturer's rights hereunder with respect thereto, the Vendee will, whenever requested by such assignee, change or cause to be changed the names and word or words to be marked on each side of each Item of Equipment or, in the event such Item shall then be leased to the Guarantor, the Guarantor shall change or cause to be changed the names and word or words to be marked on each side of such Item, so as to indicate the security title of such assignee to the Equipment with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the first assignee of this Agreement, (or to a successor agent or trustee in case the first assignee is an agent or trustee) and with respect to the Vendee shall be borne by the Manufacturer. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent or trustee if the

first assignee is an agent or trustee) will be borne by the subsequent assignee.

13.6. In the event of any such assignment prior to the completion of delivery of the Equipment, the Vendee and the Guarantor will, in connection with settlement for any Group of Equipment subsequent to such assignment, deliver or caused to be delivered to the assignee, at the time of delivery by the Vendee of notice fixing the Closing Date with respect to such Group, all documents reasonably required by the terms of such assignment to be delivered by or on behalf of the Vendee and the Guarantor, respectively, to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested.

13.7. If on the Closing Date with respect to any Group the Manufacturer shall not receive the aggregate purchase price in respect of such Group, the Manufacturer will promptly notify the Vendee and the Guarantor of such event and, if such amount shall not have been previously paid, the parties hereto will, upon the request of the Manufacturer, enter into an appropriate written agreement with the Manufacturer excluding from this Agreement those Items of Equipment whose aggregate purchase price shall not have been received, and the Vendee or the Guarantor will, not later than 90 days after the Closing Date, pay or cause to be paid to the Manufacturer the aggregate unpaid purchase price of such Items, together with interest thereon from the Closing Date to the date of payment by the Guarantor at a rate per annnum equal to 1% over the highest prime rate of interest of leading Chicago banks in effect on the Closing Date.

Section 14. Assignment of Lease.

To further secure the payment of the full amount of the indebtedness in respect of the purchase price of the Equipment, together with interest thereon, and all other payments as herein provided and for the performance of the Vendee's obligations herein contained, the Vendee hereby assigns, transfers and sets over unto the Manufacturer, and grants a security interest in, all the Vendee's right, title and interest, as Lessor under the Lease, together with all rights, powers and privileges, and all other benefits of the Vendee as Lessor under the Lease insofar as the Lease relates to Equipment delivered hereunder, including, without limitation, except as hereinafter provided, the immediate right to receive and collect all rentals and profits and other sums payable to or receivable by the Vendee under or pursuant to the provisions of the Lease (including amounts receivable by the Lessee from the Guarantor pursuant to the Sublease insofar but only insofar as it relates to Equipment delivered hereunder, and assigned to the Vendee pursuant to Section 17.1 of the Lease), and insofar as the Lease relates to Equipment delivered

hereunder, 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 under the Lease and to do any and all other things whatsoever which the Vendee, as lessor, is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Vendee hereby irrevocably authorizes and empowers the Manufacturer, in its own name, or in the name of its nominee, or in the name of the Vendee, or as its attorneys, to ask, demand, sue for, collect and receive any and all sums to which the Vendee is or may became entitled under the Lease insofar as the Lease relates to Equipment delivered hereunder, and to enforce compliance by the Lessee with all the terms and provisions of the Lease. The Vendee further agrees to notify promptly the Manufacturer of any Event of Default under the Lease of which it has notice. This assignment being made only as security shall not subject the Manufacturer to, or transfer, or pass, or in any way affect or modify, the liability of the Vendee under the Lease, it being understood and agreed that notwithstanding this assignment, or any subsequent assignment, all obligations of the Vendee to the Lessee under the Lease, shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Vendee. Further, the Vendee covenants and agrees that it will perform all its obligations to be performed under the terms of the Lease, and hereby irrevocably authorizes and empowers the Manufacturer, in its own name, or in the name of its nominee, or in the name of the Vendee as its attorney, on the happening of any failure by the Vendee so to perform, to perform or cause to be performed any such obligation. The Manufacturer hereby agrees with the Vendee that the amount of any such Lease payments insofar as the Lease relates to Equipment delivered hereunder, which are in excess of any payments of the indebtedness in respect of the purchase price of the Equipment, together with interest thereon, which are due and payable hereunder on or prior to the due date of the payments from time to time made under the Lease shall be released by the Manufacturer to or upon the order of the Vendee. Upon the full discharge and satisfaction of the full amount of the indebtedness in respect of the purchase price of the Equipment, together with interest thereon, and all other payments as herein provided and the performance of all of the Vendee's obligations herein contained, the assignment made hereby and all rights herein assigned to the Manufacturer shall cease and terminate, and all estate, right, security title and interest of the Vendee granted, assigned, transferred or set over pursuant to this Section 14 in and to the Lease shall revert to the Vendee.

Section 15. Defaults.

15.1. In the event that any one or more of the following Events of Default shall occur and be continuing, to-wit:

(a) The Vendee or the Guarantor shall fail to pay in full any sum payable by the Vendee or the Guarantor, respectively, when payment thereof shall be due under Section 3 or 6 hereof and such default shall continue for five days; or

(b) The Vendee or the Guarantor shall fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Manufacturer for such compliance for more than 30 days after written notice from the Manufacturer specifying the default and demanding the same to be remedied; or

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

(d) Any other proceedings shall be commenced by or against the Vendee or the Guarantor for any relief which includes, or might result in, any modification of the obligations of the Vendee or the Guarantor hereunder under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions, or extensions, and, unless such proceedings shall within 30 days from the filing or effective date thereof be dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee or the Guarantor, as the case may be, under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Vendee or the Guarantor, as the case may be, or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(e) The Vendee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest

herein or any unauthorized transfer of the right to possession of any item of the Equipment; or

(f) An Event of Default shall have occurred and be continuing under the Lease or the Sublease;

then at any time after the occurrence and during the continuance of such an event of default the Manufacturer may, upon written notice to the Vendee and the Guarantor and upon compliance with any legal requirements then in force and applicable to such action by the Manufacturer, but without prejudice to any rights of the Vendee under the Lease or any rights of the Lessee under the Sublease with respect to any default thereunder, cause the Lease and/or the Sublease immediately upon such notice to terminate as to the Equipment and/or declare the entire indebtedness in respect of the purchase price of the Equipment, 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 at the rate of 12% per annum, to the extent legally enforceable, and the Manufacturer shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the purchase price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Guarantor or of the Vendee wherever situated.

15.2. The Manufacturer may waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Vendee and the Guarantor in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such default had existed and no such declaration had been made. With respect to any termination of the Lease and/or the Sublease by the Manufacturer, the aforesaid waiver, rescission and annulment shall be deemed made, and the Lease and/or the Sublease shall be deemed not to have been terminated, if the Vendee within 30 days after receiving written notice thereof as aforesaid, shall elect in writing to cure such default. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee and the Guarantor 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.

15.3. Any default hereunder shall be deemed cured and not continuing if the Vendee, prior to any sale by the Manufacturer of the Equipment as provided in Section 16.3, shall pay or cause to be paid to the Manufacturer the total unpaid balance of the indebtedness in respect of the purchase price of the Equipment,

together with interest thereon accrued and unpaid and all other payments due under this Agreement.

15.4. For the purposes of Sections 15.1 and 15.3, the indebtedness in respect of the purchase price of any Equipment at any time shall be deemed to be an amount equal to the amount which would be payable as a Casualty Payment (determined as set forth in Section 6.4) on the interest payment date next succeeding the date of such determination of indebtedness in respect of the purchase price.

Section 16. Remedies.

16.1. If an event of default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire indebtedness in respect of the purchase price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Manufacturer may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Manufacturer, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any Item thereof, without liability to return to the Vendee or the Guarantor any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 16 expressly provided, and may remove the same from possession and use of the Vendee and the Guarantor and for such purpose may enter upon the premises of the Vendee or the Guarantor or 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 Vendee or the Guarantor, with or without process of law.

16.2. In case the Manufacturer shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Guarantor for the delivery of the Equipment to the Manufacturer, the Guarantor shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be reasonably designated by the Manufacturer and shall there deliver the Equipment or cause it to be delivered to the Manufacturer; and, at the option of the Manufacturer, the Manufacturer may keep the Equipment on any of the lines of railroad or premises of the Guarantor, for a period not exceeding 180 days, until the Manufacturer shall have leased, sold or otherwise disposed of the same, and for such purpose the Guarantor agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Manufacturer reasonably convenient. The agreement to deliver the

Equipment as hereinbefore provided is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Manufacturer shall be entitled to a decree against the Vendee or the Guarantor requiring specific performance hereof. The Vendee and the Guarantor hereby expressly waive any and all claims against the Manufacturer and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

16.3. If an event of default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such default and after the entire indebtedness in respect of the purchase price of the Equipment shall have been declared immediately due and payable as hereinbefore provided, the Manufacturer with or without the retaking of possession thereof may, at its election, sell the Equipment, or any Item thereof, free from any and all claims of the Vendee, or of any other party (including the Guarantor) claiming by, through or under the Vendee, at law or in equity, at public or private sale and with or without advertisement as the Manufacturer may determine; and the proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Manufacturer in taking possession of, removing, storing and selling the Equipment, shall be credited to the amount due to the Manufacturer under the provisions of this Agreement.

16.4. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Manufacturer 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 Manufacturer may determine, provided that the Vendee and the Guarantor shall be given written notice of such sale not less than 30 days prior thereto, by mail addressed as provided herein. If such sale shall be a private sale, it shall be subject to the rights of the Vendee and the Guarantor to purchase or provide a purchaser, within 30 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. The Manufacturer may bid for and become the purchaser of the Equipment, or any Item thereof, so offered for sale without accountability to the Vendee (except to the extent of surplus money received as hereinafter provided in this Section), and in payment of the purchase price therefor the Manufacturer shall be entitled to have credited on account thereof all sums due to the Manufacturer from the Vendee hereunder.

16.5. Each and every power and remedy hereby specifically given to the Manufacturer 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 Manufacturer. 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 Manufacturer 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.

16.6. All sums of money realized by the Manufacturer under the remedies herein provided shall be applied, first to the payment of the expenses and liabilities of the Manufacturer herein undertaken to be paid, second to the payment of interest on the indebtedness in respect of the purchase price of the Equipment accrued and unpaid and third to the payment of the indebtedness in respect of the purchase price of the Equipment. If, after applying as aforesaid all sums of money realized by the Manufacturer, there shall remain any amount due to it under the provisions of this Agreement, the Manufacturer may bring suit therefor and shall be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Manufacturer, there shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid to the Vendee.

16.7. The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Manufacturer in enforcing its remedies under the terms of this Agreement. In the event that the Manufacturer shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Manufacturer may recover reasonable expenses, including attorneys' fees and the amount thereof shall be included in such judgment.

16.8. The foregoing provisions of this Section are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

Section 17. Applicable State Laws.

17.1. Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, to the end that this

Agreement shall be deemed to be a conditional sale and enforced as such.

17.2. Except as otherwise provided in this Agreement, the Vendee, 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 the Equipment, or any Item thereof, and any other requirements as to the time, place and terms of sale thereof, and other requirements with respect to the enforcement of the Manufacturer's rights hereunder and any and all rights of redemption.

Section 18. Payment of Expenses.

The Vendee and the Guarantor, jointly and severally, agree to pay all reasonable costs and expenses of the first assignee of this Agreement and of any party or parties acquiring interests in such first assignment incident to the printing, execution or recording of this Agreement, of such first assignment of the Lease and the Sublease, of any instrument supplemental or amendatory of this Agreement, such first or second assignment, the Lease or the Sublease and of any certificate of payment in full of the indebtedness in respect of the purchase price of the Equipment due hereunder including fees and expenses of counsel and if the first assignee is an agent, the fees and disbursements of such agent and of any successor agent or agents.

Section 19. Recording.

The Guarantor will cause this Agreement to be recorded in accordance with Section 10.1 of the Sublease.

Section 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 at its chief place of business at the following specified addresses:

(a) to the Vendee: Milwaukee Land Company, Room 746, Union Station, Chicago, Illinois 60606, Attention: Vice President and Comptroller;

(b) to the Guarantor: Chicago, Milwaukee, St. Paul and Pacific Railroad Company, 516 West Jackson Boulevard, Chicago, Illinois 60606, Attention: Vice President - Finance and Accounting;

(c) to the Manufacturer: at the Manufacturer's address specified in Schedule A hereto;

(d) to any assignee of the Manufacturer, or of the Vendee, at such address as may have been furnished in writing to the Vendee or the Manufacturer, as the case may be, and to the Guarantor, 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.

Section 21. Extension Not A Waiver.

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Manufacturer shall impair or affect the Manufacturer's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee shall not otherwise alter or affect the Manufacturer's rights or the obligations of the Vendee or the Guarantor hereunder. The Manufacturer's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Manufacturer's rights hereunder with respect to any subsequent payments or defaults therein.

Section 22. Headings; Modification of Agreements.

22.1. All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

22.2. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Manufacturer, the Vendee and the Guarantor. Without the prior written consent of the Manufacturer, the Vendee will not consent to any amendment, modification, waiver or supplement to the Lease or the Sublease or, except in accordance with Section 14 of the Lease, cancel or terminate the Lease prior to the payment in full of the indebtedness in respect of the purchase price of the Equipment, together with interest thereon.

Section 23. Law Governing.

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act

and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

Section 24. Definitions.

The term "Manufacturer", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, the Manufacturer named at the foot of this Agreement, and any successor or successors for the time being to the manufacturing properties and business thereof, and, after any such assignment, 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 and excluded from any assignment.

Section 25. 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 above written, 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 caused this instrument to be executed in their respective corporate names by their officers or representatives, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

United States Railway
Manufacturing Company

By Ralph Ebell

Vice President - Sales

(Corporate Seal)

Attest:

Assistant Secretary

MILWAUKEE LAND COMPANY

By

President

(Corporate Seal)

Attest:

Secretary

CHICAGO, MILWAUKEE, ST. PAUL
AND PACIFIC RAILROAD COMPANY

By

Vice President

(Corporate Seal)

Attest:

Assistant Secretary

State of Ill.)
:ss
County of Cook)

On this 23rd day of August, 1974, before me personally appeared Ralph E. Bill, to me personally known, who being by me duly sworn, says that he is a Vice President, of **United States Railway Manufacturing Company**, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Mary Ellen Zander
Notary Public

(Seal)

My Commission Expires: June 11, 1975

State of Illinois)
:ss
County of Cook)

On this 19th day of August, 1974, before me personally appeared W. L. Smith, to me personally known, who, being by me duly sworn, says that he is a ~~Vice~~ President of **Milwaukee Land Company**, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Dennis L. Stengl
Notary Public

(Seal)

My Commission Expires: Nov. 20, 1976

State of Illinois)
:ss
County of Cook)

On this 9th day of August, 1974, before me personally appeared L. F. Kratochwill, to me personally known, who, being by me duly sworn, says that he is a Vice President of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Doris L. Atley
Notary Public

(Seal)

My Commission Expires: Nov. 20, 1976

SCHEDULE A
TO
CONDITIONAL SALE AGREEMENT
AMONG
UNITED STATES RAILWAY MANUFACTURING COMPANY,
MILWAUKEE LAND COMPANY
AND
CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Name and Address of Manufacturer:	United States Railway Manufacturing Company c/o Walter Deitch, Esq. Rosenthal & Schamfield 105 West Adams Street 34th Floor Chicago, Illinois 60690
Description of Equipment:	70 50' 70-ton box cars
Railroad's Road Number:	50,500-50,569
Base Price:	
Per Item	$21,000
Total	$1,470,000
Maximum Price:	
Per Item:	$22,130
Total	$1,549,100
Estimated Delivery Date(s):	Commencing August, 1974
Place of Delivery:	Bensonville, Illinois and/or Atlanta, Georgia
Term of Warranty:	One Year

Annex I to
Conditional Sale
Agreement

EQUIPMENT LEASE
dated as of August 1, 1974

Between

MILWAUKEE LAND COMPANY,
Lessor

and

FRANKLIN SERVICE CORP.,
Lessee

* * *

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Attachments to Lease

Schedule A - Description of Equipment

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This Equipment Lease dated as of August 1, 1974 between MILWAUKEE LAND COMPANY, an Iowa corporation (the "Lessor"), and FRANKLIN SERVICE CORP., an Oregon corporation (the "Lessee");

W I T N E S S E T H :

WHEREAS, the Lessor and Chicago, Milwaukee, St. Paul and Pacific Railroad Company (the "Guarantor") have entered into, or propose to enter into, certain conditional sale agreements (the "Conditional Sale Agreements") to be dated as of the date hereof with certain manufacturers named therein (individually, a "Manufacturer" and, collectively, the "Manufacturers") providing for the sale by the Manufacturers to the Lessor of items of railroad equipment as more fully set forth in Schedule A hereto (collectively, the "Equipment" and, individually, an "Item" or "Item of Equipment"); and

WHEREAS, by instruments of Agreement and Assignment (the "Assignments") to be dated as of the date hereof the Manufacturers have assigned or will assign their respective right, security title and interest under the respective Conditional Sale Agreements to American National Bank and Trust Company of Chicago, Agent for certain Interim Lenders and Investors (the "Agent" or the "Assignee"); and

WHEREAS, the Lessee proposes to enter into an equipment lease dated as of the date hereof (the "Sublease") with the Guarantor providing for the leasing, subject to the Conditional Sale Agreements, of the Equipment by the Lessee to the Guarantor; and

WHEREAS, the Lessee desires to lease all of the Items of Equipment or such lesser number as are delivered to and accepted by the Lessor under the Conditional Sale Agreements on or prior to June 1, 1975 at the rentals and for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Equipment to the Lessee upon the following terms and conditions, namely, but subject to all the rights and remedies of the Manufacturers and their assigns under the Conditional Sale Agreements.

Section 1. Delivery and Acceptance of Equipment.

Pursuant to Section 2 of the Conditional Sale Agreements, the Manufacturers will cause each Item of Equipment to be tendered to the Lessor at the respective places of delivery set forth in Schedule A to the Conditional Sale Agreements. Upon such tender,

the Lessor will cause an authorized representative of the Guarantor to inspect the same, and if such Item of Equipment is found to conform to the specifications therefor, to accept delivery of such Item of Equipment and to execute and deliver to the Lessor, the Lessee and the Manufacturer a certificate of acceptance (hereinafter called "Certificate of Acceptance") substantially in the form attached to the Sublease as Schedule B, whereupon such Item of Equipment shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all of the terms and conditions of this Lease.

Section 2. Rentals and Payment Dates.

2.1. Rentals for Equipment. Subject to the provisions of Section 17.2, the Lessee agrees to pay the Lessor for each Item of Equipment leased hereunder fixed rental (the "Fixed Rental") as follows:

(a) with respect to each Item delivered prior to November 11, 1974, there shall be payable on November 11, 1974 an amount equal to interest on the Conditional Sale Indebtedness (as that term is defined in Section 3 of the Conditional Sale Agreements) in respect of such Item from the Closing Date (as defined in Section 3.2 of the Conditional Sale Agreements) with respect to such Item to November 11, 1974 at a rate per annum equal to 120% of the minimum commercial lending rate charged by Continental Illinois National Bank and Trust Company of Chicago to its customers of highest credit standing as in effect from time to time during such period; and

(b) with respect to each Item delivered prior to January 2, 1975, there shall be payable on January 2, 1975 an amount equal to interest on the Conditional Sale Indebtedness in respect of such Item from the later of (i) the Closing Date with respect to such item or (ii) November 11, 1974 to January 2, 1975 at the rate of 11% per annum; and

(c) with respect to all Items leased hereunder, 60 consecutive quarterly installments of Fixed Rental each in the aggregate amount of 2.745995% of the purchase price (as that term is defined in the Conditional Sale Agreements) of such Items payable on each January 1, April 1, July 1 and October 1, commencing April 1, 1975; and

(d) three additional installments of Fixed Rental, payable in each case on the later of (i) (A) the fifth business day after the execution hereof, (B) October 1, 1974 and (C) January 1, 1975, respectively, or (ii) the fifth business day after the later of (X) execution and delivery by

the respective parties thereto of the Conditional Sale Agreements, the Sublease and the Finance and Agency Agreement among the Guarantor, the Interim Lenders and Investors named therein and American National Bank and Trust Company of Chicago, as Agent or (Y) receipt of a favorable ruling by the Internal Revenue Service to be requested by the Guarantor as described in Section 6 hereof, it being understood and agreed that the amount of any installment of Fixed Rental payable under this paragraph (d) shall not exceed 2.745995% of the aggregate purchase price of the Equipment then subject to this Lease at the date of payment of such installment but if, subsequent to the payment of any installment under this paragraph (d), additional Equipment shall become subject to this Lease, then on the date of payment of the next installment payable under this paragraph (d) or June 1, 1975, whichever is earlier, there shall be payable as Fixed Rental hereunder an additional amount equal to 2.745995% of the aggregate purchase price of Equipment which became subject to this Lease subsequent to the payment of such installment.

2.2. Place of Rent Payment. Subject to the rights of the Assignee set forth in Section 16 hereof, all payments provided for in this Lease to be made to the Lessor shall be made to the Lessor by wire transfer of Federal funds at its address set forth in Section 20.1 hereof, or at such other place as the Lessor or its assigns shall specify in writing.

2.3. No Abatements or Reductions. The Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against any Manufacturer or the Assignee; 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 or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity of unenforceability or lack of due authorization or other infirmity of this Lease or the Sublease, or lack of right, power or authority of the Lessor to enter into this Lease, 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 unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment is placed and ready for delivery to the Lessor on the Guarantor's lines, or is stored

for the Lessor on the Guarantor's lines or leaves the Guarantor's lines for off-line delivery to the Lessor.

Section 3. Term of the Lease.

The term of this Lease as to each Item of Equipment shall begin on the date of delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Section 11 hereof, shall terminate on January 1, 1990.

Section 4. Title to the Equipment.

4.1. Retention of Title. The Lessor is acquiring full legal title to the Equipment as Vendee under the Conditional Sale Agreements (but only upon compliance with all the terms and conditions thereof) and it is understood that (i) Lessee shall acquire no right, title and interest to the Equipment hereunder except the right to use and possess the same in accordance with the terms hereof and (ii) this Lease is in all respects subject to the terms and provisions of the Conditional Sale Agreements. Without limiting the generality of the foregoing, the Lessee hereby acknowledges that the rights of the Lessee and its permitted assigns hereunder are subordinate and junior in rank to the rights, and are subject to the remedies, of the respective Manufacturers under the Conditional Sale Agreements.

4.2. Duty to Number and Mark Equipment. The Lessee will cause the Guarantor to agree that it will cause each Item of Equipment to be kept numbered and marked as required by Section 4.2 of the Sublease.

The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not consent to any change by the Guarantor of any road number of any Item of Equipment except with the consent of the Lessor and the Assignee.

4.3. Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may permit the Guarantor to cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Guarantor or its affiliates on railroad equipment used by it of the same or a

similar type for convenience of identification of the right of the Guarantor to use the Equipment under the Sublease.

Section 5. Disclaimer of Warranties.

THE LESSOR LEASES THIS EQUIPMENT, AS-IS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, BY THE LESSOR, THE LESSOR EXPRESSLY DISCLAIMING ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT INCLUDING BUT NOT LIMITED TO THEIR VALUE, CONDITION, DESIGN OR OPERATION, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, (D) THE DESIGN OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT OR (E) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE.

The Lessor hereby appoints and constitutes the Lessee, with full power of substitution, its agent and attorney-in-fact during the term of this Lease, so long as the Lessee is not in default hereunder, 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 Equipment against the Manufacturer.

Section 6. Federal Income Taxes.

The Lessor shall make an affirmative election under Section 48(d) of the Internal Revenue Code of 1954 (hereinafter called the "Code") to treat the Lessee as having acquired the Equipment for purposes of the provisions of the Code relating to investment tax credit. The Lessor shall, at its own expense, submit to the Internal Revenue Service a request for a ruling by the Internal Revenue Service that the Lessee is entitled to receive the benefits of the investment tax credit. Lessor 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 hereof.

Notwithstanding anything to the contrary contained herein, the Lessor represents and warrants that (i) all of the Items of Equipment constitute property the entire purchase price of which

meets the requirements of Section 50 of the Code; (ii) at the time the Lessee becomes the lessee of the Items hereunder, the Items will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and at the time the Lessee becomes the lessee of the Items hereunder, the Items will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 48(b) of the Code from commencing with the Lessee; (iii) at all times during the term of this Lease, each Item will constitute "Section 38 property" within the meaning of Section 48(a) of the Code; and (iv) the Lessor will maintain sufficient records to verify such use.

If at any time after payment by the Lessee of any amounts required to be paid by Section 2.1(d) hereof, the Lessee shall lose, or if there shall be disallowed with respect to the Lessee any portion of the full investment tax credit provided for in Sections 38-50 of the Code (or any successor provision thereto), with respect to any of the Items as a result of any amendment or modification of the Code or of any rules or regulations promulgated thereunder or as a result of any act or failure to act of Lessor including without limitation the inaccuracy in law or in fact of the representations and warranties set forth in the next preceding paragraph, there shall be payable to the Lessee on the next succeeding rental payment date set forth in Section 2.1 after written notice to the Lessor by the Lessee of such fact, (i) such amount as shall, by the end of the term hereof, in the reasonable opinion of the Lessee, result in an aggregate net return equivalent to that which would have been realized by the Lessee if the Lessee had not made the rental payments required to be made under Section 2.1(d) hereof and (ii) the amount of any interest and penalty which may be assessed by the United States against the Lessee attributable to the loss of any portion of such investment tax credit.

Section 7. Rules, Laws and Regulations.

The Lessee agrees to comply and to cause the Guarantor pursuant to the Sublease to comply with all governmental laws, regulations, requirements and rules (including the rules of the United States Department of Transportation and the American Association of Railroads) with respect to the use, maintenance and operation of each Item of Equipment subject to this Lease.

Section 8. Use and Maintenance of Equipment.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall cause the Equipment

to be kept and maintained in the same order, condition and repair as when delivered hereunder, ordinary wear and tear excepted, suitable for use in interchange. The Lessee shall not allow any Item of Equipment to be modified without the written authority and approval of the Lessor which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee hereunder or by the Guarantor under the Sublease upon any Item of Equipment shall be considered accessions to such Item of Equipment and legal title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

Section 9. Liens on the Equipment.

Throughout the term of this Lease and during the period of any storage of the Equipment by the Lessee provided for in Section 13 or 15 hereof, the Lessee shall pay or satisfy and discharge or cause to be paid, satisfied and discharged any and all claims against, through or under the Lessee or the Guarantor and its successors or assigns which, if unpaid, might constitute or become a lien, encumbrance or charge upon the Equipment, and any liens, encumbrances or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease or the failure of the Guarantor to perform or observe any of its covenants or agreements under the Sublease, but the Lessee shall not be required to pay, satisfy or discharge or cause to be paid, satisfied and discharged any such claims so long as the Lessee or the Guarantor shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment. The Lessee's obligations under this Section 9 shall survive termination of this Lease.

Section 10. Further Assurances; Payment of Fees and Taxes.

10.1. Filing. The Lessee will, from time to time, do and perform any act and will execute, acknowledge, deliver, file, register, deposit and record (and will re-file, re-register, re-deposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to, or the Assignee's security interest in, the Equipment to the satisfaction of the Lessor's or the Assignee's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor proof of such filings and an opinion of counsel (who may be counsel to the Guarantor) that such action has been properly taken. The Lessor will pay or will reimburse the Lessee for all costs,

charges and expenses incident to any such filing, re-filing, recording, re-recording, depositing, re-depositing, registering or re-registering of any such instruments or incident to the taking of such action.

10.2. Payment of Taxes. The Lessor shall report, pay and discharge when due all license and registration fees, assessments, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment hereunder and other taxes, fees and governmental charges similar or dissimilar to the foregoing together with any penalties or interest thereon, imposed by any state, federal or local government upon any Item of Equipment and whether or not the same shall be assessed against or in the name of the Lessor or the Lessee.

Section 11. Insurance; Payment for Casualty Occurrence.

11.1. Insurance. The Lessee will at all times after delivery and acceptance of each Item of Equipment keep or cause the Guarantor to keep each such Item insured by a reputable insurance company or companies in amounts and against risks customarily insured against by other railroad companies on similar equipment. Such insurance may provide that losses shall be adjusted with the Guarantor and shall provide that the proceeds thereof shall be payable to the Lessor, the Assignee, the Guarantor, and the Lessee as their interests shall appear. All proceeds of insurance received by the Lessor and the Assignee with respect to any Items of Equipment not suffering a Casualty Occurrence (as hereinafter defined) shall be paid to the Lessee upon proof satisfactory to the Lessor and the Assignee that any damage to any Item with respect to which such proceeds were paid has been fully repaired. Any such proceeds of insurance received by the Lessor and Assignee with respect to a Casualty Occurrence shall be credited toward the payment required by this Section 11 with respect to such Casualty Occurrence.

11.2. Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the reasonable opinion of the Guarantor, irreparably damaged during the term of this Lease, or thereafter while the Item of Equipment is in the possession of the Lessee pursuant to Section 13 or 15 hereof, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease, (any such occurrence, except for any requisition which by its terms is for an indefinite period or is for a stated period which does not exceed the term of this Lease, being hereinafter called a Casualty Occurrence), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor and the

Assignee in regard thereto and shall pay the Casualty Value (as herein defined) of such Item in accordance with the terms hereof.

11.3. Payment of Casualty Loss. The Lessee, on the next date for payment of Fixed Rental under Section 2.1(c) following a Casualty Occurrence with respect to any Item of Equipment, shall pay to the Lessor the installment of Fixed Rental due on such payment date with respect to such Item of Equipment plus a sum equal to the Casualty Value of such Item of Equipment as of the date of such payment.

11.4. Rent Termination. Upon (and not until) payment of the Casualty Value in respect of any Item of Equipment and the rental installment due on such payment date, the obligation to pay Fixed Rental for such Item of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rent for all other Items of Equipment.

11.5. Disposition of Equipment. The Lessee shall cause the Guarantor, as sub-agent for the Lessor, to dispose of such Item of Equipment having suffered a Casualty Occurrence as soon as the Guarantor is able to do so for the fair market value thereof. Any such disposition shall be on an "as is", "where is" basis without representation or warranty, express or implied. It is understood and agreed that as to each separate Item of Equipment so disposed of the Guarantor is entitled, to the extent that the Casualty Value attributable to such Item under the Sublease has been paid by the Guarantor to the Lessee, to retain all amounts of such price plus any insurance proceeds and damages received by the Guarantor by reason of such Casualty Occurrence up to the Casualty Value attributable thereto under the Sublease and shall remit the excess, if any, to the Lessee. The Sublease will provide that in disposing of such Item of Equipment, the Guarantor shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item of Equipment.

11.6. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the Casualty Occurrence) equal to that percentage of the Purchase Price of such Item of Equipment as is set forth in the Schedule of Casualty Value attached hereto as Schedule B opposite such date of payment.

11.7. Risk of Loss. The Lessee shall bear the risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Casualty Value

and the Fixed Rental installments due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Guarantor and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.8. Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessee's obligation to pay rent shall continue for the duration of such requisitioning or taking. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession to an amount equal to the rent paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property.

Section 12. Annual Reports.

The Lessee will furnish to the Lessor on or before May 1 in each year, commencing with the year 1975, an accurate statement of its financial condition as of the preceding year-end, certified by the Lessee's independent accountants, if any, and by a principal financial or accounting officer of the Lessee. The officer's certification referred to in the preceding sentence shall include a statement that such officer is not aware of any Events of Default hereunder or under the Sublease or conditions or events which with notice or lapse of time might become such an Event of Default or, if such officer is aware of any such Event of Default or condition or event, specifying the same and the nature thereof.

Section 13. Return of Equipment Upon Expiration of Term.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at the request of the Lessor, deliver or cause the Guarantor to deliver possession of such Item of Equipment to the Lessor upon such storage tracks of the Guarantor as the Lessor may designate, or in the absence of such designation, as the Guarantor may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 180 days and transport the same at any time within such 180 day period to any reasonable place on the lines of railroad operated by the Guarantor or to any connecting

carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, 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. During any such storage period the Lessee shall maintain the Items of Equipment in such manner as the Lessee normally maintains similar equipment owned or leased by it in similar storage circumstances. The assembling, delivery, storage and transporting of the Equipment 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 to so assemble, deliver, store and transport the Equipment.

Section 14. Default.

14.1. Events of Default. Any of the following events shall constitute an Event of Default hereunder:

(a) Default shall be made in the payment of any part of the rental or other sums provided in Section 2 hereof or in Section 11 hereof and such default shall continue for five days; or

(b) The Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or of possession of the Equipment, or any portion thereof, and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having an interest therein and to recover possession of such Equipment within 30 days after written notice from the Lessor to the Lessee demanding such cancellation and recovery of possession; or

(c) An Event of Default under the Sublease shall have occurred and be continuing; or

(d) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 30 days after written notice

from the Lessor to the Lessee, specifying the default and demanding the same to be remedied; or

(e) Any other proceedings shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder).

14.2. Remedies. Subject to the provisions of Section 14 of the Conditional Sale Agreements, if any Event of Default has occurred and is continuing, the Lessor, at its option, may:

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

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment 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 Equipment may be located and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose whatever, but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts 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 a fraction of which the numerator is such accrued number of days in such full rental period and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Item of Equipment, which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then fair rental value of such Item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates to be obtainable for the use of the Item during such period, such present worth to be computed in each case on a basis of a 6% per annum discount, compounded quarterly from the respective dates upon which rentals would have been

payable hereunder had this Lease not been terminated, and (ii) any damages and expenses, including reasonable attorney's fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease, other than for the payment of rental.

14.3. Cumulative Remedies. 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 any of 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 of any right to assert any off-set against the rent payments due hereunder, and agrees to make the rent payments regardless of any off-set or claim which may be asserted by the Lessee on its behalf in connection with the lease of the Equipment.

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

14.5. Termination by Assignee of Conditional Sale Agreements. Anything in this Lease to the contrary notwithstanding, if the Assignee of the Conditional Sale Agreements shall, upon the occurrence of an Event of Default as defined therein, state in a written notice to the Lessor and Lessee that this Lease terminates with respect to all or part of the Equipment leased hereunder, this lease shall, immediately upon receipt by Lessee of such notice, terminate as to all or such part of the Equipment and the rights of the Lessee hereunder shall at all times and in all respects be subject and subordinate to the rights and remedies of the Assignee under the Conditional Sale Agreement.

Section 15. Return of Equipment Upon Default.

15.1. Lessee's Duty to Return. If the Lessor or the Assignee shall terminate this Lease in whole or in part pursuant to Section 14 hereof, the Lessee shall forthwith cause possession of the Equipment, or such portion thereof as to which this Lease is terminated, to be delivered to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall:

(a) Cause the Guarantor to forthwith place such Equipment in such reasonable storage place on the Guarantor's lines of railroad as the Lessor may designate or, in the absence of such designation, as the Guarantor may select;

(b) Permit the Lessor to store such Equipment in such reasonable storage place on the Guarantor's lines of railroad for a period not exceeding 180 days at the risk of the Lessee; and

(c) Cause the Guarantor to transport the Equipment, at any time within such 180 days' period, to any place on the lines of railroad operated by the Guarantor or to any connecting carrier for shipment, all as the Lessor may reasonably direct upon not less than 30 days' written notice to the Lessee.

15.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment 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 cause delivery, storage and transportation of the Equipment.

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligations of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of Lessee and hereby substitutes the Lessor as agent and attorney of the Guarantor pursuant to Section 15.3 of the Sublease, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whosoever shall be at the time in possession of such Item.

Section 16. Assignments by Lessor.

This Lease and all rent and other sums due and to become due hereunder and other rights of the Lessor hereunder have been assigned to the respective Manufacturers of Items of Equipment subject hereto pursuant to Section 14 of the Conditional Sale Agreements, and all rent and other sums due and to become due hereunder shall be paid by wire transfer of Federal funds to the Assignee at such bank or trust company in the United States of America as the Assignee shall from time to time specify in writing. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of the Assignee in and to the sums payable by the Lessee under any provisions of

this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interference from whatsoever cause (other than from a wrongful act of the Assignee) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of the Assignee, the Lessee, subject to Section 17.2 hereof, shall be unconditionally and absolutely obligated to pay the Assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the Assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the Assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor.

Section 17. Assignments by Lessee; Use and Possession.

17.1. Assignment of Sublease. To further secure the payment of the full amount of the Fixed Rental and all other payments as herein provided and for the performance of the Lessee's obligations herein contained, the Lessee hereby assigns, transfers and sets over unto the Lessor, and grants a security interest in, all the Lessee's right, title and interest, as lessor under the Sublease, together with all rights, powers and privileges, and all other benefits of the Lessee as lessor under the Sublease, including, without limitation, except as hereinafter provided, the immediate right to receive and collect all rentals and profits and other sums payable to or receivable by the Lessee under or pursuant to the provisions of the Sublease, 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 under the Sublease and to do any and all other things whatsoever which the Lessee, as lessor, is or may become entitled to do under the Sublease. In furtherance of the foregoing assignment, the Lessee hereby irrevocably authorizes and empowers the Lessor, in its own name, or in the name of its nominee, or in the name of the Lessee, or as its attorneys, to ask, demand, sue for, collect and receive any and all sums to which the Lessee is or may become entitled under the Sublease and to enforce compliance by the Guarantor with all the terms and provisions of the Sublease. The Lessee further agrees to notify promptly the Lessor of any Event of Default under the Sublease of which it has notice. This assignment being made only as security shall not subject the

Lessor to, or transfer, or pass, or in any way affect or modify, the liability of the Lessee as lessor under the Sublease, it being understood and agreed that notwithstanding this assignment, or any subsequent assignment, all obligations of the Lessee to the Guarantor, as lessee, under the Sublease, shall be and remain enforceable by the Guarantor, its successors and assigns, against, and only against, the Lessee. Further, the Lessee covenants and agrees that it will perform all of its obligations to be performed under the terms of the Sublease, and hereby irrevocably authorizes and empowers the Lessor, in its own name, or in the name of its nominee, or in the name of the Lessee, as its attorney, on the happening of any failure by the Lessee to perform or cause to be performed, any such obligation. The Lessor hereby agrees with the Lessee that the amount of any such payments of Fixed Rental or of Casualty Value under the Sublease which are in excess of any payments of the Fixed Rental or of Casualty Value, as the case may be, due and payable hereunder are not assigned hereby and shall be released by the Lessor to or upon the order of the Lessee. Upon the full discharge and satisfaction of the full amount of the Fixed Rental, and all other payments as herein provided and the performance of all of the Lessee's obligations herein contained, the assignment made hereby and all rights herein assigned to the Lessor shall cease and terminate, and all estate, right, security title and interest of the Lessee granted, assigned, transferred or set over pursuant to this Section 17.1 in and to the Sublease shall revert to the Lessee.

17.2. Limitation of Lessee's Obligation. Notwithstanding any other provision of this Lease, it is understood and agreed by the Lessor that all amounts payable by the Lessee under and pursuant to this Lease (other than amounts payable under Section 2.1(d)), shall be payable only from and out of the Equipment, the Sublease and the sums payable thereunder and the obligation of the Guarantor thereunder; and the Lessor agrees that it will look solely to the Equipment, Sublease and Guarantor and that it shall have no claim or right to proceed against the Lessee in its individual corporate capacity, or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of, the Lessee. The Lessor by the acceptance of this Lease waives and releases the liability of the Lessee in its individual corporate capacity, and any incorporator or any past, present or future subscriber to the capital stock, or stockholder, officer or director of the Lessee, and agrees to look solely to the Equipment and its rights hereunder, the sums due and to become due under the Sublease and the obligation of the Guarantor thereunder, for the payment of the Fixed Rental and all other payments and obligations as herein provided.

17.3. Lessee's Rights to the Equipment. Subject always to the provisions of, and to the rights of the Manufacturers under the Conditional Sale Agreements, 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 Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment. 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 Equipment, except to the extent permitted by the provisions of Section 17.2 of the Sublease.

17.4. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation (which shall have duly assumed the obligations hereunder of Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of Lessee as an entirety or substantially as an entirety; provided that such assignment or transfer shall not result in any Event of Default hereunder.

Section 18. Opinion of Lessee's Counsel.

On or prior to the Closing Date first occurring under any of the Conditional Sale Agreements, the Lessee will deliver to the Agent such number of counterparts of the written opinion of counsel for the Lessee as the Agent may reasonably request, addressed to the Lessor and the Agent, in scope and substance satisfactory to the Lessor and the Agent to the effect that:

(a) The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Oregon;

(b) The Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and to carry out the terms of this Lease and the Sublease;

(c) This Lease and the Sublease have each been duly authorized, executed and delivered by the Lessee and constitute the valid, legal and binding agreements of the Lessee enforceable in accordance with their respective terms;

(d) No approval, consent of, or filing with, any public regulatory body is required with respect to the entering into or performance by the Lessee of this Lease or the Sublease;

(e) The execution and delivery by the Lessee of this Lease and the Sublease do not violate any provision of any law, any order of any court or governmental agency, the Charter or By-laws of the Lessee, or any indenture, agreement, or other instrument to which the Lessee is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessee, except upon the leasehold estate of the Lessee hereunder; and

(f) As to any other matter which the Lessor or the Agent shall reasonably request.

Section 19. Interest on Overdue Rentals and Amounts Paid By Lessor.

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay an amount equal to 12% per annum (or the lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

Section 20. Miscellaneous.

20.1. 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 mails, first class postage prepaid, addressed as follows:

If to the Lessor: Milwaukee Land Company
Room 746
Union Station
Chicago, Illinois 60606
Attention: Vice President
and Comptroller

If to the Lessee: Franklin Service Corp.
517 S.W. Stark Street
Portland, Oregon 97204
Attention: John M. Wied

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

20.2. Execution in Counterparts. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

20.3. Law Governing. This Lease shall be construed in accordance with the laws of Illinois; provided, however, that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

MILWAUKEE LAND COMPANY

By_____
Vice President

LESSOR

(Corporate Seal)

Attest:

_____
Secretary

FRANKLIN SERVICE CORP.

By_____
Vice President

(Corporate Seal)

Attest:

_____

State of Illinois)
: ss
County of Cook)

On this day of August, 1974, before me personally appeared , to me personally known, who being by me duly sworn, says that he is a Vice President of **Milwaukee Land Company**, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(Seal)

My Commission Expires:

State of Oregon)
: ss
County of)

On this day of August, 1974, before me personally appeared , to me personally known, who being by me duly sworn, says that he is a Vice President of **Franklin Service Corp.**, 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

(Seal)

My Commission Expires:

SCHEDULE A

to Equipment Lease

between

MILWAUKEE LAND COMPANY

and

FRANKLIN SERVICE CORP.

Manufacturer	Description of Equipment	Railroad's Road Numbers
Paccar Inc	80 50′ 100-ton box cars	4,400- 4,479
Paccar Inc	40 60′ 70-ton high cube box cars	4,213- 4,252
Thrall Car Manufacturing Company	50 56′8″ bulkhead flat cars	67,200-67,249
United States Railway Manufacturing Company	70 50′ 70-ton box cars	50,500-50,569
Pullman Standard Division Pullman Incorporated	5 60′ 100-ton high cube box cars	4,171- 4,175
General Motors Corporation (Electro-Motive Division)	10 GP-38 2,000 H.P. Locomotives	356- 365
General Electric Company	8 U-30-C 3,000 H.P. Locomotives	5,651- 5,658

SCHEDULE B

to Equipment Lease

between

MILWAUKEE LAND COMPANY, LESSOR

and

FRANKLIN SERVICE CORP., LESSEE

SCHEDULE OF CASUALTY VALUE

The Casualty Value of an Item of Equipment payable on any Fixed Rental payment date shall mean an amount equal to the per cent of the Purchase Price (as defined in the Conditional Sale Agreements) of such item set forth opposite such payment date below, together with the payment of Fixed Rental in respect of such Item payable on such date:

Fixed Rental Payment Date	Percentage of Purchase Price (as defined in the Conditional Sale Agreements) Payable as Casualty Value	Fixed Rental Payment Date	Percentage of Purchase Price (as defined in the Conditional Sale Agreements) Payable as Casualty Value
January 2, 1975	94.8315%	October 1, 1982	70.1599%
April 1, 1975	94.6864	January 1, 1983	68.8335
July 1, 1975	94.4742	April 1, 1983	67.4412
October 1, 1975	94.1932	July 1, 1983	65.9805
January 1, 1976	93.8970	October 1, 1983	63.0610
April 1, 1976	93.5385	January 1, 1984	62.9862
July 1, 1976	93.1166	April 1, 1984	61.4517
October 1, 1976	92.6300	July 1, 1984	59.8449
January 1, 1977	92.1419	October 1, 1984	58.1635
April 1, 1977	91.5911	January 1, 1985	56.5586
July 1, 1977	90.9763	April 1, 1985	54.8786
October 1, 1977	90.3069	July 1, 1985	53.1211
January 1, 1978	89.6557	October 1, 1985	51.2763
April 1, 1978	88.9523	January 1, 1986	49.5350
July 1, 1978	88.1961	April 1, 1986	47.7054
October 1, 1978	87.3947	July 1, 1986	45.7920
January 1, 1979	86.5989	October 1, 1986	43.7930
April 1, 1979	86.3359	January 1, 1987	41.8957
July 1, 1979	84.8633	April 1, 1987	39.9109
October 1, 1979	83.9110	July 1, 1987	37.8360
January 1, 1980	82.9900	October 1, 1987	35.6678
April 1, 1980	82.0023	January 1, 1988	33.6162
July 1, 1980	80.9781	April 1, 1988	31.4675
October 1, 1980	79.8839	July 1, 1988	29.2186
January 1, 1981	78.8285	October 1, 1988	26.8666
April 1, 1981	77.7149	January 1, 1989	24.6446
July 1, 1981	76.5389	April 1, 1989	22.3148
October 1, 1981	75.3018	July 1, 1989	19.8739
January 1, 1982	74.1114	October 1, 1989	17.3178
April 1, 1982	72.8589	January 1, 1990	15.0000
July 1, 1982	71.5420		

Annex II to
Conditional Sale
Agreement

EQUIPMENT LEASE
dated as of August 1, 1974
Between

FRANKLIN SERVICE CORP.,
Lessor

and

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,
Lessee

* * *

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Schedule A - Description of Equipment

Schedule B - Certificate of Acceptance under Equipment Lease

Schedule C - Schedule of Casualty Value

This **Equipment Lease** dated as of August 1, 1974 between **Franklin Service Corp.**, an Oregon corporation (the "Lessor") and **Chicago, Milwaukee, St. Paul And Pacific Railroad Company**, a Wisconsin corporation (the "Lessee");

W I T N E S S E T H :

Whereas, Milwaukee Land Company, an Iowa corporation (the "Vendee"), and the Lessee have entered into or propose to enter into certain conditional sale agreements (the "Conditional Sale Agreements") to be dated as of the date hereof with certain manufacturers named therein (individually, a "Manufacturer" and, collectively, the "Manufacturers") providing for the sale by the Manufacturers to the Vendee of items of railroad equipment described in Schedule A hereto (collectively, the "Equipment" and, individually, an "Item" or "Item of Equipment"); and

Whereas, the Vendee and the Lessor have entered into an equipment lease (the "Lease") dated as of the date hereof, a copy of which has been delivered to the Lessee, providing for the leasing, subject to the Conditional Sale Agreements, of the Equipment by the Vendee to the Lessor; and

Whereas, by instruments of Agreement and Assignment (the "Assignments") to be dated as of the date hereof the Manufacturers have assigned or will assign their respective right, security title and interest under the respective Conditional Sale Agreements to **American National Bank and Trust Company of Chicago**, Agent for certain Interim Lenders and Investors (the "Agent" or the "Assignee"); and

Whereas, the Lessee desires to lease all of the Items of Equipment or such lesser number as are delivered to and accepted under the Conditional Sale Agreements on or prior to June 1, 1975, at the rentals and for the terms and upon the conditions hereinafter provided;

Now, Therefore, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Equipment to the Lessee upon the following terms and conditions, namely, but subject to all the rights and remedies of the respective Manufacturers and their assigns under the Conditional Sale Agreements.

Section 1. Delivery and Acceptance of Equipment.

Pursuant to Section 2 of the Conditional Sale Agreements, the Manufacturers will cause each Item of Equipment to be tendered to the Lessee at the respective places of delivery set forth in Schedule A to the Conditional Sale Agreements. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Item of Equipment is found to conform to the specifications therefor, to accept delivery of such Item of Equipment and to execute and deliver to the Lessor and to the Vendee and the Manufacturer a certificate of acceptance (hereinafter called "Certificate of Acceptance") substantially in the form attached hereto as Schedule B, whereupon such Item of Equipment shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all of the terms and conditions hereof.

Section 2. Rentals and Payment Dates.

2.1. Rentals for Equipment. The Lessee agrees to pay the Lessor for each Item of Equipment leased hereunder fixed rental (the "Fixed Rental") as follows:

(a) with respect to each Item delivered prior to November 11, 1974, there shall be payable on November 11, 1974 an amount equal to interest on the Conditional Sale Indebtedness (as that term is defined in Section 3 of the Conditional Sale Agreements) in respect of such Item from the Closing Date (as defined in Section 3.2 of the Conditional Sale Agreements) with respect to such Item to November 11, 1974 at a rate per annum equal to 120% of the minimum commercial lending rate charged by Continental Illinois National Bank and Trust Company of Chicago to its customers of highest credit standing as in effect from time to time during such period; and

(b) with respect to each Item delivered prior to January 2, 1975, there shall be payable on January 2, 1975 an amount equal to interest on the Conditional Sale Indebtedness in respect of such Item from the later of (i) the Closing Date with respect to such item or (ii) November 11, 1974 to January 2, 1975 at the rate of 11% per annum; and

(c) with respect to all Items leased hereunder, 60 consecutive quarterly installments of Fixed Rental each in the aggregate amount of 2.746412% of the purchase price (as that term is defined in the Conditional Sale Agreements) of such Items payable on each January 1, April 1, July 1 and October 1, commencing April 1, 1975; and

(d) one additional installment of Fixed Rental, in the aggregate amount of .887985% of the purchase price of all Items leased hereunder, payable on the later of (i) January 1, 1975, or (ii) the fifth business day after the later of (A) execution and delivery by the respective parties thereto of the Conditional Sale Agreements, the Lease and the Finance and Agency Agreement (the "Finance Agreement") among the Lessee (as Guarantor), the Interim Lenders and Investors named therein and American National Bank and Trust Company of Chicago, as Agent or (B) receipt of a favorable ruling by the Internal Revenue Service to be requested by the Lessee and referred to in Section 6 of the Lease, it being understood and agreed that the amount of the installment of Fixed Rental payable under this paragraph (d) shall not exceed .887985% of the aggregate purchase price of the Equipment then subject to this equipment lease at the date of payment of such installment but if, subsequent to the payment of the installment hereunder, additional Equipment shall become subject to this Lease, then on June 1, 1975, there shall be payable as Fixed Rental hereunder an additional amount equal to .887985% of the aggregate purchase price cf Equipment which became subject to this Lease subsequent to the payment of such installment; and

(e) one additional installment of Fixed Rental in the aggregate amount of 7.35% of the purchase price of all Items leased hereunder, payable on January 1, 1990; provided, however, that the installment of Fixed Rental payable under this paragraph (e) shall not be required to be made if (i) all payments of Fixed Rental required under this Section 2.1 shall have been made within five days of the due date thereof and (ii) the Lessee has complied with all other covenants and obligations to be performed or complied with by it hereunder in all material respects.

2.2. Place of Payment. Subject to the rights of the Vendee set forth in Section 16 hereof, all payments required to be made to the Lessor hereunder shall be made to the Lessor by wire transfer of Federal funds at its address set forth in Section 20.1 hereof, or at such other place as the Lessor or its assigns shall specify in writing.

2.3. Net Lease. This equipment lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against the Vendee, any Manufacturer or the Assignee; nor except as otherwise expressly provided herein, shall this equipment 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 or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this equipment lease, or lack of right, power or authority of the Lessor to enter into this equipment lease, 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 unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment is placed and ready for delivery to the Lessor on the the Lessee's lines, or is stored for the Lessor on the Lessee's lines or leaves the Lessee's lines for off-line delivery to the Lessor.

2.4. Federal Income Taxes. The Lessor, as lessee of the Equipment under the Lease, shall be entitled to such deduction, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof, to a lessee of property, including, without limitation, the Investment Tax Credit with respect to the Equipment.

Section 3. Term.

The term of this equipment lease as to each Item of Equipment shall begin on the date of delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Section 11 hereof, shall terminate on January 1, 1990.

Section 4. Title To The Equipment.

4.1. Retention of Title. The Vendee has acquired full legal title to the Equipment under the Conditional Sale Agreements (but only upon compliance with all the terms and conditions thereof) and has granted to the Lessor the right to use and possess the Equipment pursuant to the Lease and it is understood that (i) Lessee shall acquire no right, title and interest to the Equipment hereunder except the right to use and possess the same in accordance with the terms hereof notwithstanding the delivery of the Equipment to and the possession and use thereof by the Lessee and (ii) this equipment lease is in all respects subject to the terms and provisions of the Conditional Sale Agreements.

4.2. Duty to Number and Mark Equipment. The Lessee will cause each Item of Equipment to be kept numbered with its road

number as set forth in Schedule A hereto and will keep and maintain each Item of Equipment plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height as follows:

> "SUBLEASED FROM FRANKLIN SERVICE CORP., SUBLESSOR AND LESSEE FROM MILWAUKEE LAND COMPANY, LESSOR AND VENDEE - AND SUBJECT TO A SECURITY INTEREST RECORDED WITH THE I.C.C."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Vendee to such Item of Equipment, its rights under the Lease and the rights of the Bank, the Assignee and any assignee under Section 16 of the Lease. The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the road number of any Item of Equipment except with the consent of the Lessor, the Vendee and the Assignee and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this equipment lease shall have been filed, recorded or deposited.

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

Section 5. Disclaimer of Warranties.

THE LESSOR LEASES THIS EQUIPMENT, AS-IS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, BY THE LESSOR, THE LESSOR EXPRESSLY DISCLAIMING ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT INCLUDING BUT NOT LIMITED TO THEIR VALUE, CONDITION,

DESIGN OR OPERATION, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, (D) THE DESIGN OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, OR (E) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE.

The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact and hereby substitutes the Lessee for the Lessor as agent and attorney-in-fact of the Vendee pursuant to Section 5 of the Lease during the term of this equipment lease, so long as the Lessee is not in default hereunder, to assert and enforce, from time to time, in the name and for the account of the Lessor, the Vendee 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 or the Vendee may have as owner or lessee of the Equipment under the Lease against any Manufacturer.

Section 6. Lessee's Indemnity.

6.1. Scope of Indemnity. The Lessee shall defend, indemnify and save harmless the Lessor and the Assignee and their successors and assigns from and against:

(a) any and all loss or damage of or to the Equipment, usual wear and tear excepted, and

(b) any claim, cause of action, damages, liability, cost or expense (including counsel fees and costs in connection therewith) which may be incurred in any manner by or for the account of any of them (i) relating to the Equipment or any part thereof, including without limitation, the construction, purchase, delivery, installation, ownership, leasing or return of the Equipment or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects are latent or discoverable by the Lessor or by the Lessee), (ii) by reason or as the result of any act or omission of the Lessee for itself as agent or attorney-in-fact for the Lessor hereunder, (iii) as a result of claims for patent infringements, or (iv) as a result of claims for negligence or strict liability in tort.

6.2. Continuation of Indemnities and Assumptions. The indemnities and assumptions of liability in this Section 6 contained shall continue in full force and effect notwithstanding the termination of this equipment lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise;

provided, however, that such indemnities and assumption of liability shall not apply in respect of any matters referred to in paragraph (a) of Section 6.1 hereof, occurring after the termination of this equipment lease, except for any such matters occurring before the return of the Equipment to the possession of the Lessor as provided in Sections 13 or 15, as the case may be. The Lessee shall be entitled to control, and shall assume full responsibility for, the defense of such claim or liability.

Section 7. Rules, Laws and Regulations.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including the rules of the United States Department of Transportation and Interstate Commerce Commission and the American Association of Railroads) with respect to the use, maintenance and operation of each Item of Equipment subject to this equipment lease. In case any equipment or appliance is required to be installed on such Item of Equipment in order tc comply with such laws, regulations, requirements and rules, the Lessee agrees to make such changes, additions and replacements, without cost or expense to the Lessor.

Section 8. Use and Maintenance of Equipment.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in the same order, condition and repair as when delivered hereunder, ordinary wear and tear excepted, suitable for use in interchange. The Lessee shall not modify any Item of Equipment without the written authority and approval of the Lessor and the Vendee which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Vendee, without cost or expense to the Lessor.

Section 9. Liens on the Equipment.

Throughout the term of this equipment lease and during the period of any storage of the Equipment by the Lessee provided for in Section 13 or 15 hereof, the Lessee shall pay or satisfy and discharge any and all claims against, through or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien, encumbrance or charge upon the Equipment, and any liens, encumbrances or charges which may be levied against or

imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this equipment lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not affect or endanger the interest of the Lessor in the Equipment. The Lessee's obligations under this Section 9 shall survive termination of this equipment lease.

Section 10. Filing, Payment of Fees and Taxes.

10.1. Filing. Prior to the delivery and acceptance of the first Item of Equipment, the Lessee will, at its sole expense, cause this equipment lease, the Lease, the Conditional Sale Agreements and the instruments of assignment thereof to be duly filed, recorded or deposited in conformity with Section 20c of the Interstate Commerce Act and in such other places within or without the United States as may be necessary for the protection of the Vendee's title or the security interest of the Assignee and will furnish the Lessor and said persons proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record (and will re-file, re-register, re-deposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor and said persons for the purpose of protecting the Vendee's title to, or the Assignee's security interest in the Equipment to the satisfaction of the Vendee's or the Assignee's counsel or for the purpose of carrying out the intention hereof and in connection with any such action, will deliver to the Lessor and said persons proof of such filings and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, re-filing, recording, re-recording, depositing, re-depositing, registering or re-registering of any such instruments or incident to the taking of such action.

10.2. Payment of Taxes. The Lessee, or the Lessor at the Lessee's expense, shall report, pay and discharge when due all license and registration fees, assessments, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees and governmental charges similar or dissimilar to the foregoing (excluding any tax measured by the Lessor's net income and any gross receipts or gross income taxes in substitution for or by way of relief from the payment of taxes measured by such net income, provided that the Lessee agrees to pay (i) that portion of any such tax on or measured by rentals payable hereunder or the net income therefrom which is in direct substitution for, or

which relieves the Lessee from, a tax which the Lessee would otherwise be obligated to pay under the terms of this Section, and (ii) any tax measured by rentals payable hereunder or the net income therefrom which is imposed by any commonwealth or state or political subdivision thereof, other than the State of Oregon or any political subdivision thereof), together with any penalties or interest thereon, imposed by any state, federal or local government upon any Item of Equipment and whether or not the same shall be assessed against or in the name of the Lessor or the Lessee; provided, however, that the Lessee shall not be required to pay or discharge any such tax or assessment (i) so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the interests of the Lessor, the Vendee and the Assignee in the Equipment; however, the Lessee shall reimburse the Lessor for any damages or expenses resulting from such failure to pay or discharge, or (ii) as to assessments against or in the name of anyone other than the Lessee, until 20 days after written notice thereof shall have been given to the Lessee.

Section 11. Insurance; Payment for Casualty Occurrence.

11.1. Insurance. The Lessee will at all times after delivery and acceptance of each Item of Equipment, at its own expense, keep or cause to be kept each such Item insured by a reputable insurance company or companies in amounts and against risks customarily insured against by other railroad companies on similar equipment. Such insurance may provide that losses shall be adjusted with the Lessee and shall provide that the proceeds thereof shall be payable to the Lessor, the Vendee, the Assignee and the Lessee, as their interests shall appear. All proceeds of insurance received by the Lessor, the Vendee or the Assignee with respect to any Items of Equipment not suffering a Casualty Occurrence (as hereinafter defined) shall be paid to the Lessee upon proof satisfactory to the Lessor, the Vendee and the Assignee that any damage to any Item with respect to which such proceeds were paid has been fully repaired. Any such proceeds of insurance received by the Lessor, the Vendee or the Assignee with respect to a Casualty Occurrence shall be credited toward the payment required by this Section 11 with respect to such Casualty Occurrence.

11.2. Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the reasonable opinion of the Lessee, irreparably damaged during the term hereof or thereafter while the Item of Equipment is in possession of the Lessee pursuant to Section 13 or 15 hereof, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or

otherwise during the term hereof (any such occurrence, except for any requisition which by its terms is for an indefinite period or is for a stated period which does not exceed the term hereof, being hereinafter called a Casualty Occurrence), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor, the Vendee and the Assignee in regard thereto and shall pay the Casualty Value (as herein defined) of such Item in accordance with the terms hereof.

11.3. Payment of Casualty Loss. The Lessee, on the next succeeding Fixed Rental payment date following a Casualty Occurrence with respect to any Item of Equipment, shall pay to the Lessor the rental installment due on such payment date with respect to such Item of Equipment plus a sum equal to the Casualty Value of such Item of Equipment as of the date of such payment.

11.4. Rent Termination. Upon (and not until) payment of the Casualty Value in respect of any Item of Equipment and the rental installment due on such payment date, the obligation to pay rent for such Item of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rent for all other Items of Equipment.

11.5. Disposition of Equipment. The Lessee shall, as agent for the Lessor and sub-agent for the Vendee, dispose of such Item of Equipment having suffered a Casualty Occurrence as soon as it is able to do so for the fair market value thereof. Any such disposition shall be on an "as is", "where is" basis without representation or warranty, express or implied. As to each separate Item of Equipment so disposed of the Lessee may retain all amounts of such price plus any insurance proceeds and damages received by the Lessee by reason of such Casualty Occurrence up to the Casualty Value attributable thereto and shall remit the excess, if any, to the Lessor. In disposing of such Item of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such dispositon from or connected with such Item of Equipment.

11.6. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the Casualty Occurrence) equal to that percentage of the Purchase Price of such Item of Equipment as is set forth in the Schedule of Casualty Value attached hereto as Schedule C opposite such date of payment; provided, however, that, if the Lessor shall not have been required to pay the amounts of rental specified in Section 2.1(d) of the Lease, the Casualty Value of each Item of Equipment hereunder shall be deemed to be an amount

equal to the Casualty Value payable with respect to such Item of Equipment under Section 11 of the Lease.

11.7. Risk of Loss. The Lessee shall bear the risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Casualty Value and the Fixed Rental installments due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessee and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.8. Eminent Domain. In the event that during the term of this equipment lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this equipment lease, the Lessee's obligation to pay rent shall continue for the duration of such requisitioning or taking. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession to an amount equal to the rent paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property.

Section 12. Annual Reports.

12.1. Duty of Lessee to Furnish. On or before May 1 in each year, commencing with the year 1975, the Lessee will furnish to the Lessor and to the Assignee an accurate statement, as of the preceding December 31, (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date hereof, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Lessor or the Assignee may reasonably request, (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.2 hereof shall have been preserved or replaced, and (c) describing the insurance coverage, if any, maintained by the Lessee pursuant to Section 11.1 hereof.

12.2. Lessor's Inspection Rights. The Lessor and the Assignee each shall have the right, at its sole cost and expense

by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor or, as the case may be, the Assignee the existence and proper maintenance thereof during the continuance hereof.

12.3. Financial Reports. The Lessee will furnish to the Lessor at the same time reports are required to be furnished to the Assignee, such reports as are required to be furnished to the Assignee pursuant to Section 10 of the Finance Agreement.

Section 13. Return of Equipment Upon Expiration of Term.

Upon the expiration of the term of this equipment lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks of the Lessee as the Lessor may designate, or in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 180 days and transport the same at any time within such 180 day period to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, 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. During any such storage period the Lessee shall maintain the Items of Equipment in such manner as the Lessee normally maintains similar equipment owned or leased by it in similar storage circumstances. The assembling, delivery, storage and transporting of the Equipment 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 to so assemble, deliver, store and transport the Equipment.

Section 14. Default.

14.1. Events of Default. Any of the following events shall constitute an Event of Default hereunder:

(a) Default shall be made in the payment of any part of the rental or other sums provided in Section 2 hereof or in Section 11 hereof and such default shall continue for five days; or

(b) The Lessee shall make or permit any unauthorized assignment or transfer of this equipment lease, or of possession of the Equipment, or any portion thereof, and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having any interest therein and to recover possession of such Equipment within 30 days after written notice from the Lessor to the Lessee demanding such cancellation and recovery of possession; or

(c) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Conditional Sale Agreements and such default shall continue for 30 days after written notice from the Lessor to the Lessee, specifying the default and demanding the same to be remedied; or

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

(e) Any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions, or extensions, and, unless such proceedings shall within 30 days from the filing or effective date thereof be dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee hereunder shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any,

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

14.2. Remedies. Subject to the provisions of Section 17.1 of the Lease, if any Event of Default has occurred and is continuing, 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 hereof or to recover damages for the breach thereof; or

(b) By notice in writing to the Lessee, terminate this equipment lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this equipment 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 Equipment may be located and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose whatever, but the Lessor, shall, nevertheless, have a right to recover from the Lessee any and all amounts 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 a fraction of which the numerator is such accrued number of days in such full rental period and the denominator is 90) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Item of Equipment, which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this equipment lease over the then present worth of the then fair rental value of such Item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates to be obtainable for the use of the Item during such period, such present worth to be computed in each case on a basis of a 6% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this equipment lease not been terminated, and (ii) any damages and expenses, including reasonable attorney's fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this equipment lease, other than for the payment of rental.

14.3. Cumulative Remedies. The remedies herein 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 exisitng at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of 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 of any right to assert any off-set against the rent payments due hereunder, and agrees to make the rent payments regardless of any off-set or claim which may be asserted by the Lessee on its behalf in connection with the lease of the Equipment.

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

14.5. Termination by Assignee of Conditional Sale Agreements. Anything herein to the contrary notwithstanding, if the Assignee of the Conditional Sale Agreements shall, upon the occurrence of an Event of Default as defined therein, state in a written notice to the Lessor and Lessee that this equipment lease is terminated with respect to part or all of the Equipment, this equipment lease shall, immediately upon receipt by Lessee of such notice, terminate as to all or such part of the Equipment and the rights of the Lessee hereunder shall at all times and in all respects be subject and subordinate to the rights and remedies of the Assignee under the Conditional Sale Agreements.

Section 15. Return of Equipment Upon Default.

15.1. Lessee's Duty to Return. If the Lessor or the Assignee shall terminate this equipment lease with respect to part or all of the Equipment pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment, or such part thereof as to which this equipment lease shall have been terminated, to the Lessor or elsewhere at the Lessor's request. For the purpose of delivering possession of any Item of Equipment as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place such Equipment in such reasonable storage place on the Lessee's lines of railroad as the Lessor may designate or, in the absence of such designation, as the Lessee may select;

(b) Permit the Lessor to store such Equipment in such reasonable storage place on the Lessee's lines of railroad

for a period not exceeding 180 days at the risk of the Lessee; and

(c) Transport the Equipment, at any time within such 180 days' period, to any place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as the Lessor may reasonably direct upon not less than 30 days' written notice to the Lessee.

15.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this equipment 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 Equipment.

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligations of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor, with full power of substitution, as the agent and attorney of Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whosoever shall be at the time in possession of such Item.

Section 16. Assignments By Lessor.

This equipment lease and all Fixed Rental due and to become due under Section 2.1(c) hereof have been assigned to the Vendee pursuant to Section 17 of the Lease, and the Vendee's right thereto has been or will be assigned to the Manufacturers pursuant to Section 14 of the Conditional Sale Agreements. All Fixed Rental due and to become due under Section 2.1(c) hereof shall be paid by wire transfer of Federal funds to the Assignee at such bank or trust company in the United States of America as the Assignee shall from time to time specify in writing. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of the Assignee in and to the sums payable by the Lessee under any provisions of this equipment lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's leasehold interest, or any interference from whatsoever cause (other than from a wrongful act of the Assignee) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability,

howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of the Assignee, the Lessee shall be unconditionally and absolutely obligated to pay the Assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the Assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the Assignee) which by the terms hereof are permitted or provided to be exercised by the Lessor.

Section 17. Assignments By Lessee; Use and Possession.

17.1. Lessee's Rights to the Equipment. So long as the Lessee shall not be in default hereunder, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms hereof, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this equipment lease in any of the Equipment. 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 Equipment, except to the extent permitted by the provisions of Section 17.2 hereof.

17.2. Use and Possession on Lines Other Than Lessee's Own. The Lessee shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad owned or operated by it (either alone or jointly) or by any corporation a majority of whose voting stock (i.e., having ordinary voting power for the election of a majority of its Board of Directors) is owned directly or indirectly by the Lessee, or upon lines of railroad over which the Lessee or such corporation has trackage or other operating rights or over which Equipment of the Lessee is regularly operated pursuant to contract, but only upon and subject to all the terms and conditions hereof. Notwithstanding the foregoing, the Lessee will not assign any Item of Equipment to service including the regular operation and maintenance thereof outside the United States of America. No assignment or sublease entered into by the Lessee hereunder shall relieve the Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

17.3. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of Lessee to assign or transfer its leasehold interest hereunder in the Equipment or possession of the Equipment to any corporation (which shall have duly assumed the obligations

hereunder of Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of Lessee as an entirety or substantially as an entirety; provided that such assignment or transfer shall not result in any Event of Default hereunder.

Section 18. Opinion of Lessee's Counsel.

On or prior to the first Closing Date under the Conditional Sale Agreements, the Lessee will deliver to the Agent such number of counterparts of the written opinion of counsel for the Lessee and the Vendee as the Agent may reasonably request, addressed to the Lessor and the Agent, in scope and substance satisfactory to the Lessor and the Agent, to the effect that:

(a) The Lessee and the Vendee are corporations legally incorporated and validly existing, in good standing, under the laws of the State of Wisconsin;

(b) The Lessee and the Vendee have the corporate or other power and authority to own their respective property and carry on their respective business as now being conducted and are duly qualified to do business as foreign corporations in all states in which such qualification is necessary to carry out the terms of this equipment lease, the Lease, the Conditional Sale Agreements and the Finance Agreement;

(c) The Lease, the Finance Agreement and the Conditional Sale Agreements have each been duly authorized, executed and delivered by the Vendee and constitute the valid, legal and binding agreements of the Vendee enforceable in accordance with their respective terms;

(d) This equipment lease, the Conditional Sale Agreements and the Finance Agreement have each been duly authorized, executed and delivered by the Lessee and constitute the valid, legal and binding agreements of the Lessee enforceable in accordance with their terms;

(e) This equipment lease, the Lease, the Conditional Sale Agreements and the assignments thereof have each been filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and no other filing, recording or depositing is necessary to protect the Vendee's title and the Manufacturers' security title to the Equipment in the United States of America;

(f) No approval, consent of, or filing with, any pubic regulatory body is required with respect to the entering into or performance by the Lessee or the Vendee of the Conditional

Sale Agreements, the Finance Agreement, this equipment lease or the Lease;

(g) The execution and delivery by the Vendee of the Conditional Sale Agreements, the Finance Agreement and the Lease do not violate any provision of any law, any order of any court or governmental agency, the Charter or By-laws of the Vendee, or any indenture, agreement, or other instrument to which the Vendee is a party or by which it or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Vendee, except upon the legal title of the Vendee to the Equipment;

(h) The execution and delivery by the Lessee of the Conditional Sale Agreements, the Finance Agreement and this equipment lease do not violate any provision of any law, any order of any court or governmental agency, the Charter or By-laws of the Lessee, or any indenture, agreement, or other instrument to which the Lessee is a party or by which it or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessee, except upon the leasehold estate of the Lessee hereunder; and

(i) As to any other matter which the Lessor or the Agent shall reasonably request.

Section 19. Interest on Overdue Rentals and Amounts Paid By Lessor.

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay an amount equal to 12% per annum (or the lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

Section 20. Miscellaneous.

20.1. 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 mails, first class postage prepaid, addressed as follows:

If to the Lessor: Franklin Service Corp.
517 S.W. Stark Street
Portland, Oregon
Attention: John M. Wied

If to the Lessee: Chicago, Milwaukee, St. Paul and Pacific Railroad Company
516 West Jackson Boulevard
Chicago, Illinois 60606
Attention: Vice President
Finance and Accounting

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

20.2. Execution in Counterparts. This equipment lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

20.3. Law Governing. This Lease shall be construed in accordance with the laws of Illinois; provided, however, that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

FRANKLIN SERVICE CORP.

By_____
Vice President

(Corporate Seal)

Attest:

_____
Secretary

CHICAGO, MILWAUKEE, ST. PAUL
AND PACIFIC RAILROAD COMPANY

By_____
Vice President

(Corporate Seal)

Attest:

_____
Secretary

State of Oregon)
: ss
County of)

On this day of August, 1974, before me personally appeared to me personally known, who being by me duly sworn, says that he is a Vice President of FRANKLIN SERVICE CORP., 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

(Seal)

My Commission Expires:

State of Illinois)
:ss
County of Cook)

On this day of August, 1974, before me personally appeared to me personally known, who being by me duly sworn, says that he is a Vice President of CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(Seal)

My Commission Expires:

SCHEDULE A

to Equipment Lease

between

FRANKLIN SERVICE CORP.

and

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Manufacturer	Description of Equipment	Railroad's Road Numbers
Paccar Inc	80 50′ 100-ton box cars	4,400- 4,479
Paccar Inc	40 60′ 70-ton high cube box cars	4,213- 4,252
Thrall Car Manufacturing Company	50 56′8″ bulkhead flat cars	67,200-67,249
United States Railway Manufacturing Company	70 50′ 70-ton box cars	50,500-50,569
Pullman Standard Division Pullman Incorporated	5 60′ 100-ton high cube box cars	4,171- 4,175
General Motors Corporation (Electro-Motive Division)	10 GP-38 2,000 H.P. Locomotives	356- 365
General Electric Company	8 U-30-C 3,000 H.P. Locomotives	5,651- 5,658

SCHEDULE B
to Equipment Lease

CERTIFICATE OF ACCEPTANCE
UNDER EQUIPMENT LEASE

To: Franklin Service Corp.
("Lessor")

Milwaukee Land Company
("Vendee")

("Manufacturer")

I, a duly appointed inspector and authorized representative of CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY ("Lessee") and of the above named Lessor, do hereby certify that I have inspected, received, approved and accepted delivery, on behalf of the Lessee and under the Equipment Lease dated as of August 1, 1974 between the Lessor and the Lessee, and on behalf of the Vendee under the Conditional Sale Agreement dated as of August 1, 1974 among the Manufacturer, the Vendee and the Lessee, of the following Items of Equipment ("Equipment"):

Type of Equipment.....

Manufacturer.....

Place Accepted.....

Date Accepted.....

Number of Items.....

Numbered.....

I do further certify that the foregoing Equipment is in good order and condition, and conforms to the Specifications applicable thereto, and at the time of delivery to the Lessee there was plainly, distinctly, permanently and conspicuously marked in contrasting colors upon each side of each Item of Equipment the following legend in letters not less than one inch in height:

"SUBLEASED FROM FRANKLIN SERVICE CORP., SUBLESSOR AND LESSEE FROM MILWAUKEE LAND COMPANY, LESSOR AND VENDEE - AND SUBJECT TO A SECURITY INTEREST RECORDED WITH THE I.C.C."

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

_____

Inspector and Authorized Representative of Lessee

SCHEDULE C

to Equipment Lease

between

FRANKLIN SERVICE CORP., LESSOR

and

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, LESSEE

SCHEDULE OF CASUALTY VALUE

The Casualty Value of an Item of Equipment payable on any Fixed Rental payment date shall mean an amount equal to the per cent of the Purchase Price (as defined in the Conditional Sale Agreements) of such items set forth opposite such payment date below, together with the payment of Fixed Rental in respect of such Item payable on such date:

Fixed Rental Payment Date	Percentage of Purchase Price (as defined in the Conditional Sale Agreements) Payable as Casualty Value	Fixed Rental Payment Date	Percentage of Purchase Price (as defined in the Conditional Sale Agreements) Payable as Casualty Value
January 2, 1975	108.2930%	October 1, 1982	70.1599%
April 1, 1975	108.1479	January 1, 1983	68.8335
July 1, 1975	107.9357	April 1, 1983	67.4412
October 1, 1975	107.6547	July 1, 1983	65.9805
January 1, 1976	107.3585	October 1, 1983	63.0610
April 1, 1976	107.0000	January 1, 1984	62.9862
July 1, 1976	106.5781	April 1, 1984	61.4517
October 1, 1976	106.0915	July 1, 1984	59.8449
January 1, 1977	105.6034	October 1, 1984	58.1635
April 1, 1977	105.0526	January 1, 1985	56.5586
July 1, 1977	104.4378	April 1, 1985	54.8786
October 1, 1977	103.7684	July 1, 1985	53.1211
January 1, 1978	98.6301	October 1, 1985	51.2763
April 1, 1978	97.9267	January 1, 1986	49.5350
July 1, 1978	97.1705	April 1, 1986	47.7054
October 1, 1978	96.3691	July 1, 1986	45.7920
January 1, 1979	95.5733	October 1, 1986	43.7930
April 1, 1979	95.3103	January 1, 1987	41.8957
July 1, 1979	93.8377	April 1, 1987	39.9109
October 1, 1979	92.8854	July 1, 1987	37.8360
January 1, 1980	87.4771	October 1, 1987	35.6678
April 1, 1980	86.4894	January 1, 1988	33.6162
July 1, 1980	85.4652	April 1, 1988	31.4675
October 1, 1980	84.3710	July 1, 1988	29.2186
January 1, 1981	83.3156	October 1, 1988	26.8666
April 1, 1981	82.2020	January 1, 1989	24.6446
July 1, 1981	81.0260	April 1, 1989	22.3148
October 1, 1981	79.7889	July 1, 1989	19.8739
January 1, 1982	74.1114	October 1, 1989	17.3178
April 1, 1982	72.8589	January 1, 1990	15.0000
July 1, 1982	71.5420		

7634
RECORDATION NO. _____ Filed & Recorded
SEP 4 1974 -4 [illegible] PM
INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT
Dated as of August 1, 1974

Between

THE MANUFACTURER NAMED HEREIN

and

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO,
as Agent ("Assignee")

* * *

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AGREEMENT AND ASSIGNMENT

Agreement And Assignment dated as of August 1, 1974, between the corporation named as Manufacturer at the foot of this Agreement (the "Manufacturer") and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Agent (the "Assignee").

Whereas, the Manufacturer, MILWAUKEE LAND COMPANY, an Iowa corporation (the "Vendee") and CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a Wisconsin corporation (the "Guarantor"), have entered into a Conditional Sale Agreement dated as of August 1, 1974 (the "Conditional Sale Agreement") providing for the construction, sale and delivery on the conditions therein set forth, by the Manufacturer and the purchase by the Vendee of the railroad equipment described in Schedule A to the Conditional Sale Agreement (collectively the "Equipment" and individually "Item" or "Items of Equipment") and including the unconditional guaranty by the Guarantor of all obligations of the Vendee under the Conditional Sale Agreement; and

Whereas, the Assignee, the Vendee and the Guarantor have entered into a Finance and Agency Agreement dated as of August 1, 1974 (the "Finance Agreement") providing for the acquisition from the Manufacturer by the Assignee of the right, title and interest of the Manufacturer under the Conditional Sale Agreement, subject to the conditions set forth below; and

Whereas, the Vendee has entered into an equipment lease (the "Lease") dated as of August 1, 1974 with FRANKLIN SERVICE CORP., an Oregon corporation (the "Lessee") in the form attached as Annex I to the Conditional Sale Agreement providing, among other things, for the leasing of the Equipment by the Vendee to the Lessee and the Lessee has entered into an equipment lease (the "Sublease") dated as of August 1, 1974 with the Guarantor in the form attached as Annex II to the Conditional Sale Agreement providing, among other things, for the leasing of the Equipment by the Lessee to the Guarantor.

Now, Therefore, This Agreement and Assignment (the "Assignment"),

W I T N E S S E T H :

That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

Section 1. Assignment by Manufacturer. The Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of the Manufacturer in and to each Item of Equipment to be built by it when and as delivered and accepted and upon payment by the Assignee to the Manufacturer of the amount required to be paid under Section 5 hereof and payment by the Vendee of the amount required to be paid with respect to such Item under Section 3.3(a) of the Conditional Sale Agreement;

(b) All the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement (except the right to construct and deliver the various Items of Equipment and the right to receive the payments specified in Section 3.3(a) thereof and in Section 13.7 thereof and reimbursement for taxes paid or incurred by the Manufacturer and the right to indemnity from the Guarantor for claims arising against the Manufacturer as provided in Sections 11.1 and 12 thereof), and in and to any and all amounts which may be or become due or owing to the Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee or the Guarantor under the Conditonal Sale Agreement, other than those hereinabove excluded; and

(c) Except as limited in subparagraph (b) above, all of the Manufacturer's rights, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse, however, against the Manufacturer for or on account of the failure of the Vendee or the Guarantor to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify the obligations of the Manufacturer to deliver the various Items of Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements contained in Sections 11.3, 12 and 13.5 (with respect to marking) of the Conditional Sale Agreement or relieve the Vendee or the Guarantor from their respective obligations to the Manufacturer under Sections 2, 3.3(a), 7, 11, 12 and 13 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Section 13 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Vendee or the Guarantor shall be and remain enforceable by the Vendee or the Guarantor,

their respective agents, successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee and the Guarantor with the terms and agreements on their parts to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

Section 2. Covenants and Agreements of Manufacturer. The Manufacturer covenants and agrees that it will construct and deliver the various Items of Equipment to the Vendee, in accordance with the provisions of the Conditional Sale Agreement (but only after filing of the Conditional Sale Agreement and this Assignment with the Interstate Commerce Commission under Section 20c of the Interstate Commerce Act), and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement to be performed and complied with by the Manufacturer. The Manufacturer further covenants and agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each Item of Equipment to the Vendee under the Conditional Sale Agreement it had legal title to such Item and good and lawful right to sell such Item and the title to such Item was free of all claims, liens and encumbrances of any nature except only the rights of the Vendee under the Conditional Sale Agreement, the rights of the Lessee under the Lease and the rights of the Guarantor under the Sublease; and the Manufacturer further covenants and agrees that it will defend the title to such Item built by it against the demands of all persons whomsoever based on claims originating prior to said delivery of such Item by the Manufacturer to the Vendee; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Vendee thereunder, the rights of the Lessee under the Lease and the rights of the Guarantor under the Sublease.

The Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of the Conditional Sale Agreement, the Manufacturer will indemnify, protect and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever of the Vendee arising out of a breach by

the Manufacturer of any obligation with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or under Sections 11 and 12 of the Conditional Sale Agreement, or by reason of any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Guarantor by the Manufacturer. The Manufacturers's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Section 13.4 of the Conditional Sale Agreement, to strike any defense, set-off, counterclaim or recoupment asserted by the Vendee or the Guarantor in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, set-off, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to the Manufacturer of the asserted defense, set-off, counterclaim or recoupment and the Assignee's giving the Manufacturer the right, at the Manufacturer's expense, to compromise, settle or defend against such defense, set-off, counterclaim or recoupment. Any and all such obligations shall be and remain enforceable by the Vendee or the Guarantor against and only against the Manufacturer and shall not be enforceable against the Assignee or any party or parties in whom security title to the Equipment or any unit thereof or any of the rights of the Manufacturer under the Conditional Sale Agreement shall vest by reason of this Assignment or of successive assignments. The Assignee will give notice to the Manufacturer of any suit, proceeding or action by the Assignee herein described.

Except in cases of designs, systems, processes, formulas or combinations specified by the Vendee or the Guarantor and not developed or purported to be developed by the Manufacturer, and articles and materials specified by the Vendee or the Guarantor and not manufactured by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, demands, costs, charges and expenses, including reasonable royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of the Equipment, or any Item thereof, of any design, system, process, formula, combination article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give notice to the Manufacturer of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Manufacturer the right, at the Manufacturer's expense, to compromise, settle or defend against such claim.

The Manufacturer agrees that any amount payable to it by the Vendee or the Guarantor, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any Item of Equipment.

Section 3. Equipment Markings. The Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked by a plate or stencil in contrasting color on each side of each Item of Equipment, at the time of delivery thereof to the Vendee, in letters not less than one inch in height, the following legend:

> "SUBLEASED FROM FRANKLIN SERVICE CORP., SUBLESSOR AND LESSEE FROM MILWAUKEE LAND COMPANY, LESSOR AND VENDEE - AND SUBJECT TO A SECURITY INTEREST RECORDED WITH THE I.C.C."

Section 4. Recordation. Upon request of the Assignee, its successors and assigns, the Manufacturer will execute and deliver all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Manufacturer therein or in the Equipment.

Section 5. Conditions Precedent to Payment by Assignee. The Assignee, on or before noon on the Closing Date (the "Closing Date") fixed as provided in Section 3.2 of the Conditional Sale Agreement with respect to each Group (as defined in said Section 3.2) of Equipment, shall pay to the Manufacturer by transfer of Chicago Federal funds or other funds immediately available in Chicago, payable to the order of the Manufacturer at the office of American National Bank and Trust Company of Chicago, La Salle at Washington, Chicago, Illinois 60690, or at the office of such other bank or trust company in the United States of America as the Manufacturer shall designate for payment to it, an amount equal to that portion of the Purchase Price of such Items required to be paid pursuant to Section 3.3(b) of said Agreement, provided that there shall have been delivered to the Assignee and Messrs. Davis Polk & Wardwell, its special counsel, the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to the Assignee and its special counsel:

(a) Bill or Bills of Sale from the Manufacturer to the Assignee, transferring to the Assignee security title to the Items of Equipment in the Group and warranting to the Assignee and to the Vendee that at the time of delivery to

the Vendee under the Conditional Sale Agreement the Manufacturer had legal title to such Items and good and lawful right to sell such Items, and title to such Items was free of all claims, liens and encumbrances of any nature except only the rights of the Vendee under the Conditional Sale Agreement, the rights of the Lessee under the Lease and the rights of the Guarantor under the Sublease;

(b) Certificate or Certificates of Acceptance signed by an inspector or other authorized representative of the Guarantor stating that the Items of Equipment in the Group have been inspected and accepted by him on behalf of the Guarantor and further stating that each of such Items at the time of its acceptance was marked as required by Section 3 hereof;

(c) Invoices for the Items of Equipment in the Group accompanied by or having endorsed thereon a certification by the Guarantor as to the correctness of the prices of such Items as set forth in said invoices;

(d) Opinions required to be delivered to the Assignee pursuant to Section 18 of the Lease and Section 18 of the Sublease;

(e) Opinion of Messrs. Davis Polk & Wardwell, addressed to the Assignee, dated as of such Closing Date, to the effect that (i) the Conditional Sale Agreement, the Lease and the Sublease have been duly authorized, executed and delivered by the respective parties thereto and are valid and binding instruments enforceable in accordance with their respective terms, (ii) assuming the due authorization, execution and delivery of this Assignment and the Finance Agreement by the Assignee and of the Finance Agreement by the Interim Lenders and Investors named therein, this Assignment and the Finance Agreement have been duly authorized, executed and delivered by the respective parties thereto and are valid and binding instruments enforceable in accordance with their respective terms, (iii) the Assignee is vested with all the rights, titles, interests, powers, privileges and remedies purported to be assigned to it by this Assignment, (iv) security title to the Items of Equipment in the Group is validly vested in the Assignee and such Items, at the time of delivery thereof to the Vendee under the Conditional Sale Agreement, were free of all claims, liens and encumbrances except only for the rights of the Vendee under the Conditional Sale Agreement, the rights of the Lessee under the Lease and the rights of the Guarantor under the Sublease, (v) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement, this Assignment, the Lease or the

Sublease, (vi) the Conditional Sale Agreement, this Assignment, the Lease and the Sublease have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Assignee in the United States of America, (vii) registration of the Conditional Sale Agreement or this Assignment or of any certificates of interest herein delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, and (viii) such other matters as may reasonably be requested by the Assignee or any such Investors;

(f) Opinion of counsel for the Guarantor addressed to the Assignee, dated as of such Closing Date, to the effect set forth in clause (iv) of subparagraph (e) above;

(g) Opinion of counsel for the Manufacturer, addressed to the Vendee, the Guarantor, the Assignee and the Lessee, dated as of such Closing Date, to the effect set forth in clauses (iii) and (iv) of subparagraph (e) above and stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, and (ii) the Conditional Sale Agreement and this Assignment have each been duly authorized, executed and delivered by the Manufacturer and, assuming the execution and delivery thereof by each other party thereto, are valid instruments binding upon the Manufacturer and enforceable against the Manufacturer in accordance with their terms;

(h) Certificate of a Vice President of the Guarantor to the effect that no Event of Default as specified in the Lease, the Sublease or the Conditional Sale Agreement or any event which with the lapse of time and/or notice provided for in the Lease, the Sublease or the Conditional Sale Agreement would constitute such an Event of Default, has occurred and is continuing, and to the effect that, since December 31, 1973, there has been no adverse change in the affairs or financial condition of the Guarantor; and

(i) Evidence satisfactory to the Assignee that the amount payable pursuant to subparagraph (a) of Section 3.3 of the Conditional Sale Agreement has been paid by the Vendee to the Manufacturer.

In giving the opinions specified in the preceding subparagraphs (d), (e), (f) and (g), counsel may qualify any opinion to the

effect that any agreement is a valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. In giving the opinions specified in the preceding subparagraphs (e) and (f), counsel may rely as to the title to the Items of Equipment upon the opinion of counsel for the Manufacturer. In giving the opinions specified in subparagraphs (e) and (g), counsel may rely as to matters governed by the law of the State of Illinois or Wisconsin upon the opinion of counsel for the Guarantor and as to matters governed by the law of the State of Oregon upon the opinion of counsel for the Lessee.

The Assignee shall not be obligated to make any of the above mentioned payments at any time while an event of default, or any event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement would constitute an event of default, shall be subsisting under the Conditional Sale Agreement. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Manufacturer, without recourse to the Assignee, all right, security title and interest of the Assignee in and to the Items of Equipment with respect to which payment has not been made by the Assignee.

It is understood and agreed that the Assignee shall not be required to make any payment with respect to any Items of Equipment excluded from the Conditional Sale Agreement pursuant to Section 2.3 thereof.

Section 6. Further Assignments. Subject to the terms and provisions of the Finance Agreement, the Assignee may assign in the entirety all of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Vendee thereunder. In the event of any such assignment each such subsequent or successive assignee shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

Section 7. Representation of Manufacturer; Further Assurances. The Manufacturer hereby

(a) represents and warrants to the Assignee, its successors and assigns that the Conditional Sale agreement was duly authorized and lawfully executed and delivered by it for a valid consideration, that (assuming due authorization, execution and delivery by the other parties thereto) it is a valid and existing agreement binding upon the Manufacturer

and the other parties thereto, and that it is now in force without amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, security titles and interests hereby assigned and transferred to the Assignee or intended so to be.

Section 8. Governing Law. The terms of this Assignment 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 the rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited.

Section 9. Execution in Counterparts. This Assignment 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 same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Vendee and the Guarantor. Although this Assignment is dated for convenience as of the date first above written, 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 Manufacturer and the Assignee have caused these presents to be executed in their respective corporate names by officers or representatives duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the day, month and year first above written.

United States Railway
Manufacturing Company

By Ralph E Bell
Vice President - Sales

Attest:
Fred J. Fukumoto
Assistant Secretary

AMERICAN NATIONAL BANK AND
TRUST COMPANY OF CHICAGO,
as Agent

By [signature]
Second Vice President

Attest:
[signature]
Assistant Secretary

State of Ill.)
:ss
County of Cook)

On this 23rd day of August, 1974, personally appeared Ralph E. Bell, to me personally known, who being by me duly sworn, says that he is a Vice President of United States Railway Manufacturing Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Mary Ellen Gander
Notary Public

(SEAL)

My Commission Expires: June 11, 1975

State of Illinois)
:ss
County of Cook)

On this 19th day of August, 1974, before me personally appeared W. A. Ansley, to me personally known, who being by me duly sworn, says that he is a Second VICE PRESIDENT of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, 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.

Cassandra Cardaras
Notary Public

(SEAL)

My Commission Expires:

EXPIRATION DATE MARCH 6, 1978.