

RECORDATION NO. 7703 Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

DATED AS OF OCTOBER 15, 1974

among

POTOMAC ELECTRIC POWER COMPANY

CHASE MANHATTAN SERVICE CORPORATION

THRALL CAR MANUFACTURING COMPANY

and

BETHLEHEM STEEL CORPORATION

AGREEMENT AND ASSIGNMENT

DATED AS OF OCTOBER 15, 1974

among

THRALL CAR MANUFACTURING COMPANY,

BETHLEHEM STEEL CORPORATION

and

AMERICAN SECURITY & TRUST COMPANY,

As Agent

CONDITIONAL SALE AGREEMENT dated as of October 15, 1974, among the corporations named in Item 1 of Annex A hereto (the foregoing corporations being hereinafter called collectively the Builders or, severally, the Builder, or collectively or severally called the Vendor as the context may require, all as more particularly set forth in Article 1 hereof), POTOMAC ELECTRIC POWER COMPANY (hereinafter called the Lessee), and CHASE MANHATTAN SERVICE CORPORATION (hereinafter called the Vendee).

WHEREAS, the Builders agree to construct, sell and deliver to the Vendee, and the Vendee agrees to purchase, the railroad equipment described in Annex B hereto (hereinafter called the Equipment);

WHEREAS, the Vendee is entering into a lease dated as of the date hereof with the Lessee in substantially the form annexed hereto as Annex C (hereinafter called the Lease) and has joined in this Agreement for the purpose of 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 do hereby agree as follows:

ARTICLE 1. Assignment; Definitions; Additional Agreements. The parties hereto contemplate that the Vendee will furnish that portion of the purchase price for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such purchase price shall be paid to the Builders by an assignee of the Builders' right, title and interest under this Agreement pursuant to an Agreement and Assignment dated as of the date hereof between the Builders and American Security & Trust Company, acting as Agent under a Finance Agreement dated the date hereof (such Finance Agreement being hereinafter called the Finance Agreement, such Agreement and Assignment being hereinafter called the Assignment and American Security & Trust Company, as Agent, being hereinafter sometimes called the Assignee).

The term "Vendor", whenever used in this Agreement, means, before any assignment of any of their rights hereunder, the respective corporations named in Item 1 of Annex A hereto and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the respective corporations (as to the units of Equipment to be constructed by such corporation and sold hereunder) named in Item 1 of Annex A hereto and any successor or successors for the time being to its manufacturing properties and business.

In case of such assignment, the Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title, and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease and Agreement in substantially the form of Annex D hereto.

The rights and obligations of the Builders under this Agreement are several in accordance with their interests and not joint. Accordingly, whenever this Agreement, by the use of such designation as "the Vendor", "such Builder" or other similar term, confers a right or imposes an obligation upon any corporation named in Item 1 of Schedule A hereto or its successor, such right or obligation shall be construed to accrue to or to be enforceable against only the specific corporation furnishing the units of Equipment giving rise to such right or obligation and its successors as herein provided.

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, each Builder shall construct the Equipment at its plant set forth in Annex B hereto (such Equipment with respect to each Builder being hereinafter sometimes called its Equipment), and will sell and deliver to the Vendee, and the Vendee will purchase from such Builder and accept delivery of and pay for (as hereinafter provided), such Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between such Builder, the Vendee and the Lessee (which specifications and modifications,

if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit to be used in the manner in which such unit will be used, and each such unit (except to the extent, if any, referred to in Annex A hereto and/or in Article 7 hereof) will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. Each Builder will deliver the units of the Equipment to the Vendee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until this Agreement and the Lease have been filed pursuant to Section 20c of the Interstate Commerce Act; provided, further, that no Builder shall have any obligation to deliver any unit of its Equipment hereunder subsequent to the commencement of any proceedings specified in clause (c) of Article 16 hereof or the occurrence of any event of default (as described in Article 16 hereof), or event which, with the lapse of time and/or demand, would constitute such an event of default.

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

Notwithstanding the preceding provisions of this Article 3, any Equipment not delivered and accepted and settled for pursuant to Article 4 hereof on or before the Cut-Off Date (as defined in Article 4 hereof) shall be excluded herefrom. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto

limiting this Agreement to the Equipment not so excluded herefrom. If a Builder's failure to deliver Equipment so excluded herefrom resulted from one or more of the causes set forth in the immediately preceding paragraph, the Lessee shall be obligated to purchase such Equipment and pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by such Builder, such payment to be in cash on the delivery of such Equipment, either directly or, in case the Lessee shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Lessee shall determine and as shall be reasonably acceptable to such Builder.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who will be employees of or other persons retained by the Lessee) and each Builder shall grant to such authorized inspectors reasonable access to its plant. Each Builder agrees to inspect all materials used in the construction of the Equipment in accordance with the standard quality control practices of such Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto and if such unit or units shall have been or are being simultaneously inspected and accepted by the Lessee pursuant to § 2 of the Lease and the certificate of acceptance therein referred to shall have been or is simultaneously being executed by the Lessee, then such inspector or an authorized representative of the Vendee shall execute and deliver to such Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 10 hereof; provided, however, that such Builder shall not thereby be relieved of its warranty referred to in Article 14 hereof.

On delivery and acceptance of each such unit hereunder at the place specified for delivery, the Vendee will assume the responsibility and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit; provided, however, that such delivery shall not thereby relieve

a Builder of its warranty referred to in Article 14 hereof.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices, which shall include freight charges, if any, from the respective Builders' plants to the point of delivery, are subject to such increase or decrease as may be agreed to by the Builder thereof and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased. If on any Closing Date (as hereinafter defined in this Article) the aggregate Purchase Price of Equipment for which settlement has theretofore been and is then being made under this Agreement would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Annex A hereto (or such higher amount as the Vendee may at its option agree to, provided that such higher amount shall have been approved by the Lessee), the Builders (and any assignee of the Builders) and the Lessee will, unless at the request of the Lessee the Vendee shall pay such excess (it being understood that the Vendee shall be under no obligation to do so), enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Annex A hereto (or such higher amount as aforesaid), and the Lessee agrees to purchase any such unit or units so excluded from this Agreement from the Builder thereof for cash on the date such unit or units would otherwise have been settled for under this Agreement either directly, or by means of a conditional sale, equipment trust or other appropriate method of financing as the Lessee shall determine and shall be reasonably acceptable to the Builder.

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Vendee as is provided in Item 2 of Annex A hereto (each such group being hereinafter called a Group). The term "Closing Date" with respect to any Group shall mean such date (not earlier than November 15, 1974, and not later than May 31, 1975, such later date being herein called the Cut-Off Date), occurring not more than ten business days following presentation by a Builder to the Vendee of the invoice and of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Lessee, as shall be fixed by the Lessee by written notice delivered to the Vendee and the Vendor at least six business days

prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York or Washington, D. C., are authorized or obligated to remain closed.

The Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor, the Purchase Price of the Equipment, as follows:

(a) On the Closing Date with respect to each Group at such place in Chicago, Illinois, or New York, New York, as the Builder whose Equipment shall be included in such Group, reasonably may designate in writing, in immediately available funds an amount equal to 24.3243% of the aggregate Purchase Price of such Group (except as such amount may be adjusted pursuant to the third paragraph of § 17 of the Lease) plus the amount by which (x) the Purchase Price of all units of the Equipment covered by this Agreement for which settlement has theretofore and is then being made, as set forth in the invoice or invoices therefor (said invoiced prices being hereinafter called the Invoiced Purchase Prices), exceeds (y) the sum of \$3,222,400 and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this subparagraph (a) (said excess of clause (x) over clause (y) being hereinafter called the Excess Amount); and

(b) In 30 instalments, as hereinafter provided, at such place in New York, New York, as the Vendor reasonably may designate in writing, in immediately available funds an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (herein called the Conditional Sale Indebtedness) shall be payable on each June 1 and December 1, commencing December 1, 1975, to and including June 1, 1990 (or if any such date is not a business day, on the next preceding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness shall bear interest

from the Closing Date in respect of which such indebtedness was incurred at the rate of 11-1/8% per annum and such interest shall be payable, to the extent accrued, on June 1, 1975, and on each Payment Date thereafter. The instalments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto. The Vendee will furnish to the Vendor and the Lessee promptly after each Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

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

The Vendee will pay interest, to the extent legally enforceable, at the rate of 12-1/8% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 hereof, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

The Vendee's acknowledgment under the third paragraph of this Article 4 and the obligation of the Vendee to pay to the Vendor any amount required to be paid pursuant to the third paragraph of this Article with respect to any Group is specifically subject to the fulfillment, on or before the Closing Date in respect of such Group, of the following conditions (any of which may be waived by the Vendee, and payment by the Vendee of the amount specified in subparagraph (a) of the third paragraph of this Article with respect to such Group shall be conclusive evidence that such conditions have been fulfilled or irrevocably waived):

(a) the Assignee shall have paid or caused to have been paid to the Builder thereof the amounts contemplated to be paid by it as provided in Article 1 hereof and in the Assignment and the documents required

by the Assignment shall have been delivered;

(b) no event of default of the Lessee specified herein or Event of Default of the Lessee under the Lease, nor any event which with lapse of time and/or demand provided for herein or in the Lease could constitute such an event of default or Event of Default, shall have occurred and be continuing;

(c) the Vendee shall have received (i) the opinions of counsel required by § 15 of the Lease and (ii) such other documents as the Vendee may reasonably request; and

(d) the Vendee shall have received executed counterparts of the documents specified in clauses b, c and h of the first paragraph of Section 4 of the Assignment, and copies certified by the Lessee or the Builder of the documents specified in clauses a and d of said paragraph.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof), it is understood and agreed by the Vendor that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, with the exceptions only of the payments to be made pursuant to Article 20 hereof and subparagraph (a) of the third paragraph of this Article, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Vendee only to the extent that the Vendee or any assignee of the Vendee shall have actually received sufficient "income or proceeds from the Equipment" to make such payments. Except as provided in the next preceding sentence, the Vendor agrees that the Vendee or any assignee of the Vendee shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Vendee or any assignee of the Vendee. In addition, the Vendor agrees that the Vendee (i) makes no representation or warranty, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease (or any document relative thereto) in so far as it relates to the Lessee or of any of the Lessee's obligations thereunder and (ii) shall not be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this

Agreement against the Lessee and the Equipment and to the Vendor's rights under the Lease against the Lessee and the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 16 hereof shall have occurred and the Vendee shall have received notice thereof and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 10 or any other provision of the Lease (except as specifically provided otherwise with respect to public liability insurance proceeds in § 7 of the Lease) and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) [not including amounts paid by the Lessee to the Vendee as reimbursement of sums paid by the Vendee on account of prior defaults under paragraph (a) of Article 16] as are then indefeasibly received by the Vendee or any assignee of the Vendee and as shall equal the unpaid portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on, or within six days after, the date such amounts are required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on, or within six days after, the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against

the Equipment as provided for herein for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder. Notwithstanding anything to the contrary contained in Article 16 or Article 17 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 5. Title to the Equipment. The Vendor shall and hereby does retain the full security title to and property in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement. Any and all additions to the Equipment (except communications, signal and automatic control equipment or devices having a similar use which have been added to such unit by the Lessee, the cost of which is not included in the Purchase Price of such unit and which are not required for the operation or use of such unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body), and any and all parts installed on and additions and replacements made to any unit of the Equipment shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor 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 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 Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute a bill or bills of sale for the Equipment transferring its title thereto and property therein to the Vendee, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such

bill or bills of sale to the Vendee at its address referred to in Article 22 hereof, (b) execute and deliver at the same place, for filing, 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 (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 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 instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than net income taxes, gross receipts taxes [except gross receipts taxes in the nature of or in lieu of sales, use or rental taxes], franchise taxes measured by net income based upon such receipts, excess profits taxes 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, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the 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 Vendor 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 Vendor 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 Vendor, adversely affect the title,

property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor 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 Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved the payment thereof.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Vendee agrees that, at its own cost and expense, it will maintain and keep each unit of the Equipment in good order and repair, ordinary wear and tear excepted.

In the event that any unit of the Equipment shall be lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise, or in the reasonable opinion of the Lessee shall be worn out (such occurrences being herein called Casualty Occurrences), the Vendee shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied to prepay without penalty or premium, ratably in accordance with the unpaid balance of each instalment, the Conditional Sale Indebtedness and the Vendee will promptly furnish to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Assignee may request, calculated as provided in the fourth paragraph of Article 4 hereof.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of,

title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined, plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of the Purchase Price in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of the Equipment.

The Lessee will at all times prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at its own expense, cause to be carried and maintained property insurance in respect of the Equipment at the time subject hereto, and public liability insurance, in amounts, with deductibles not to exceed \$100,000 (which amount may be increased by the Lessee with the consent of the Vendee, which consent will not be unreasonably withheld), and against risks customarily insured against by the Lessee. The proceeds of such insurance shall be payable to the Vendor, the Vendee and the Lessee as their interests may appear (provided, however, that all proceeds of public liability insurance shall be payable to the Vendor only to the extent necessary to reimburse it for losses suffered by it covered by such public liability insurance policies). All policies of insurance shall contain a warranty clause (which shall provide that the interests of the Vendor thereunder shall not be rescinded, impaired or invalidated by any act or neglect of the Lessee), and shall provide for a thirty-day minimum written cancellation notice to the Vendor. The Lessee agrees to furnish to the Vendor concurrently with the commencement of the term of the Lease and at least annually thereafter certificates or other evidence of compliance by the Lessee with the provisions of this paragraph.

Any insurance proceeds or condemnation payments

received by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Vendee to the Vendor in respect of Casualty Occurrences pursuant to the second paragraph of this Article. If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence after the Vendee shall have made payments pursuant to this Article without deduction for such insurance proceeds or condemnation payments, the Vendor shall pay such insurance proceeds or condemnation payments to the Vendee. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. Obligations of Lessee. The obligations of the Lessee with respect to this Agreement are as set forth elsewhere herein.

ARTICLE 9. Reports and Inspections. On or before March 31 in each year, commencing with the year 1976, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment then subject to this Agreement, the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) or are then undergoing repairs (other than running repairs) or are withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating whether, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 10 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the identifying number of the Lessee as set forth in Annex B hereto, or, in the case of Equipment not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such

Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c" and other appropriate words if designated by the Vendor, with appropriate changes thereof and additions thereto, as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Vendee may also mark each unit to identify the Vendee's interest in such unit. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

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

ARTICLE 11. Compliance with Laws and Rules. During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all material respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessees' operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads, and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules are reasonably interpreted as being applicable to, or affecting, the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any unit of the Equipment, the Vendee will conform therewith at its own expense;

provided, however, that the Vendee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 12. Possession and Use. The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The Vendee may lease the Equipment to the Lessee as permitted by, and for use as provided in, the Lease and the Lessee may perform the Lease according to its terms, but the rights of the Lessee and its permitted assigns (the Lessee hereby so acknowledging) under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement. The Vendee hereby agrees that it will not exercise any of the remedies permitted in the case of an Event of Default under and as defined in the Lease until the Vendor shall have received notice in writing of its intended exercise thereof, and hereby further agrees to furnish to the Vendor copies of all summonses, writs, processes and other documents served by it upon the Lessee or served by the Lessee upon it in connection therewith. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor, except to the extent provided for in, or contemplated by, this Agreement or the Lease.

Upon termination of the Lease, the Vendee may also lease the Equipment to any railroad company, but only with the prior written consent of the Vendor, which consent may be subject to the conditions, among others, that (i) such lease shall provide that the rights of such lessee are made expressly subordinate to the rights and remedies of the Vendor under this Agreement, (ii) such lessee shall expressly agree not to assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America and (iii) such lease shall be assigned to the Vendor as security on terms consistent with those set forth in Annex D hereto, and in any event satisfactory to the Vendor.

ARTICLE 13. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

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

ARTICLE 14. Indemnities and Warranties. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention by the Vendor of title to or a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any accident, in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except, however, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by a Builder. 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, and the conveyance of security title to, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

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

The agreement of the parties relating to the Builders' respective warranties of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto.

ARTICLE 15. Assignments. The Vendee will not (a) except as provided in Article 12 hereof, transfer the right to possession of any unit of the Equipment or (b) except as provided in Article 24 hereof, sell, assign, transfer or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Vendor hereunder (including, without limitation, rights and remedies against the Vendee and the Lessee) and (ii) provides that the Vendee shall remain liable for all the obligations of the Vendee under this Agreement; provided, however, that nothing contained herein shall preclude the Vendee from selling, assigning, transferring or otherwise disposing of its rights hereunder to the Chase Manhattan Corporation or any of its wholly owned subsidiaries (excluding directors qualifying shares). Subject to the preceding sentence, any such sale, assignment, transfer or disposition may be made by the Vendee without its vendee, assignee or transferee assuming any of the obligations of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee and the benefits arising from the undertakings of the Lessee hereunder, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Builder from, any of the obligations of such Builder to construct and deliver the Equipment in accordance herewith or to respond to its respective warranties and indemnities contained or referred to in Article 14 hereof, or relieve the Vendee or the Lessee of their respective obligations to such Builders

contained in Articles 2, 3, 4, 6, 8 and 14 hereof, Annex A hereto and this Article 15, or any other obligation which, according to its terms or context, is intended to survive an assignment.

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

The Vendee and the Lessee 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 of or all the rights of the Vendor hereunder, is contemplated. The Vendee and the Lessee 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 Vendor hereunder, and for the purpose of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of a Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Lessee by a Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Lessee, as the case may be, against and only against the respective Builders.

In the event of any such assignment or successive assignments by the Vendor, the Lessee will, upon request by the assignee, change the markings on each side of each unit of the Equipment so as to be consistent with the interest of such assignee in the Equipment, to the extent necessary to conform to any requirements of the laws of the jurisdiction in which the Equipment shall be operated. The cost of such markings in the event of an assignment of not less than all the Equipment at the time covered by this Agreement shall be borne by the Lessee and, in the event of an assignment of less than all such Equipment, such cost shall be borne by such assignee.

The Lessee will, (a) in connection with each settlement for the Equipment, deliver to the assignee, at the time of delivery of notice fixing the Closing Date for such Equipment, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee, and (b) furnish to such assignee such number of counterparts of any other certificate or paper required by the Vendor as may reasonably be requested.

If a Builder shall not receive on the Closing Date the aggregate Purchase Price in respect of all the Equipment proposed to be settled for on such Closing Date, such Builder will promptly notify the Vendee and the Lessee of such event and, if such amount shall not have been previously paid, the parties hereto will, upon the request of such Builder, enter into an appropriate written agreement with such Builder excluding from this Agreement those units of Equipment whose aggregate Purchase Price shall not have been received, and the Lessee will, not later than 90 days after such Closing Date, pay or cause to be paid to such Builder the aggregate unpaid Purchase Price of such units, together with interest thereon from such Closing Date to the date of payment by the Lessee at the highest prime rate of interest charged by any of the four New York City banks having the largest total assets in effect on the date such payment is due.

ARTICLE 16. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) The Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due

hereunder (irrespective of any provision of this Agreement limiting the liability of the Vendee) and such default shall continue for 15 days; or

(b) The Vendee or the Lessee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of the Lease (other than § 6, § 13, § 14 or § 17 thereof), on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) Any proceeding shall be commenced by or against the Vendee or the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee or the Vendee hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustment of the obligations of the Vendee or the Lessee under this Agreement), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee or the Lessee, as the case may be, under this Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Vendee or the Lessee, as the case may be, or for their respective 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

(d) 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 unit of the Equipment;

then at any time after the occurrence of such an event

of default the Vendor may, upon written notice to the Vendee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the rights of the Lessee set forth in Article 12 hereof, cause the term of the Lease immediately upon such notice to terminate (and the Vendee and the Lessee each acknowledge the right of the Vendor to terminate the term of the Lease), but without affecting the indemnities which by the provisions of the Lease survive the termination of its term, and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid 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 of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the 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 Vendee or the Lessee wherever situated. The Vendee or the Lessee, as the case may be, shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement; provided, however, that failure so to notify the Vendor with respect to any such event which shall be cured and cease to be continuing shall not constitute a breach of this sentence.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Vendee and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee and the Lessee 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.

ARTICLE 17. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, subject to the rights of the Lessee set forth in Article 12 hereof, and in compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee or the Lessee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Vendee, the Lessee or any other person and for such purpose may enter upon the premises of the Vendee or the Lessee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee or the Lessee.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a point or points for the delivery of the Equipment to the Vendor, the Lessee (subject to the rights of of the Lessee set forth in Article 12 hereof), at its own expense and risk forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any unit or units have been interchanged to return the unit or units so interchanged), but only to the extent required by § 11 of the Lease, shall cause (a) such Units to be placed upon such storage tracks as the Vendor reasonably may designate, (b) the Equipment to be moved to and assembled at such location as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor and (c) the Equipment to be moved to such interchange point or points as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor.

During any such storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having

jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee and/or the Lessee requiring specific performance hereof. The Vendee and the Lessee hereby expressly waive any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Lessee by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee and the Lessee may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the 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, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon 30 days' prior written notice to the Vendee, the Lessee and any other persons to whom the law may require notice of the time and place, may, subject to the rights of the Lessee set forth in Article 12 hereof, sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Lessee or any other party claiming from, through or under the Vendee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the execution and delivery of a contract for such sale, the Vendee should tender full payment of 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 as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Vendee or the Lessee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed as provided in Article 22 hereof. If such sale shall be a private sale (which shall be deemed to

mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 railroads or other prospective purchasers have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Vendee to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee or the Lessee (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

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

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand, together with the interest from the date of such demand to the date of payment at the highest prime rate of interest charged by any of the four New York City banks having the largest total assets

in effect on the date such demand was made, and, if the Vendee shall fail to pay such deficiency, the Vendor 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 Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee.

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

The foregoing provisions of this Article 17 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 18. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee and the Lessee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 19. Recording. The Vendee or the Lessee will cause this Agreement, any assignments hereof and any

amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act; and the Vendee and the Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee and the Lessee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20. Payment of Expenses. In connection with the purchase contemplated herein, the Vendee shall pay all preparation and reproduction costs incidental to the Finance Agreement and all related exhibits and annexes thereto, this Agreement and the first Assignment hereof, the Lease and the Lease Assignment, the fee of Merrill Lynch, Hubbard, Inc., of 1/3 of 1% of the aggregate Purchase Price of the Equipment, the fees and disbursements of Messrs. Cravath, Swaine & Moore, special counsel for the Agent and the Investors for work performed during the period ending on the last Closing Date, the initial fee and the initial disbursements of the Agent, and the fees and disbursements of Messrs. Milbank, Tweed, Hadley and McCloy, special counsel for the Vendee for work performed during the period ending on the last Closing Date (all such costs, fees and disbursements being hereinafter collectively called the Expenses); provided, however, if the Expenses exceed \$40,000 (or if the transactions contemplated for the second Closing Date do not take place, then \$20,000), the Lessee shall pay such excess to the Vendee. Neither the Vendor nor the Original Investor (as defined in the Finance Agreement) shall bear any of the Expenses. The Lessee agrees that, the foregoing notwithstanding, if for any reason the transactions contemplated for the first Closing Date are not consummated, the Lessee will pay the Expenses.

ARTICLE 21. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor,

fied by the Lessee's undertakings contained in the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, irrespective of whether the Lease is in effect, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 16 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

ARTICLE 24. Sale to Lessee. In the event that the Vendee requires the Lessee to make the purchase referred to in § 17 of the Lease, the Lessee shall, in respect of all units of Equipment delivered and accepted hereunder (excluding any units for which payment in respect of a Casualty Occurrence has been made), on the date set forth for such purchase in said § 17, purchase the interest of the Vendee in such units and in payment therefor assume and agree to discharge the Vendee's obligations relating to such units under this Agreement (without regard to the limitations set forth in the last paragraph of Article 4 and Article 23 hereof) and shall pay to the Vendee an amount equal to the amount set forth in said § 17 (in respect of such purchase) and the Vendee shall thereupon convey to the Lessee all of its rights hereunder in such units pursuant to the fourth paragraph of § 13 of the Lease and thereupon shall be released from all obligations of the Vendee hereunder.

ARTICLE 25. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; 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 deposit hereof, if any, 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.

ARTICLE 26. 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 for convenience this Agreement is dated 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 executed or caused this instrument to be executed all as of the date first above written.

POTOMAC ELECTRIC POWER COMPANY,

by *A. L. Davis*
Senior Vice President

[CORPORATE SEAL]

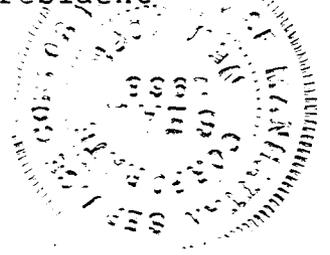
Attest: *J. B. Smith*
Assistant Secretary

CHASE MANHATTAN SERVICE CORPORATION,

by *J. W. Brennan*
Vice President

[CORPORATE SEAL]

Attest: *P. J. ...*



THRALL CAR MANUFACTURING COMPANY,

by *J. ...*
Vice President

[CORPORATE SEAL]

Attest: *A. ...*
Assistant Secretary



BETHLEHEM STEEL CORPORATION,

by *James C. Lewis*
Vice President

[CORPORATE SEAL]

Attest:

G. L. Frankfield
Assistant Secretary

DISTRICT OF COLUMBIA)
) ss.:
)

On this 8th day of November, 1974, before me personally appeared N. L. Davis, to me personally known, who, being by me duly sworn, says that he is a Senior Vice President of POTOMAC ELECTRIC POWER 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.

Indiana C. Shepp
Notary Public

My Commission expires INDIANA C. SHEPP
Notary Public D. C.
My Commission Expires June 14, 1975.

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this 6th day of November, 1974, before me personally appeared Edward Brennan to me personally known, who, being by me duly sworn, says that he is a Vice President of CHASE MANHATTAN SERVICE CORPORATION, that one of the seals affixed to the foregoing instrument is the 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.

Jane Weinberg
Notary Public

My Commission expires
JANE WEINBERG
NOTARY PUBLIC, State of New York
No. 31-4519693
Qualified in New York County
Commission Expires March 30, 1976

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

On this *7th* day of November, 1974, before me personally appeared *John P. Lynch*, to me personally known, who, being by me duly sworn, says that he is a Vice President of THRALL CAR 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.

Senna L. Jones
Notary Public

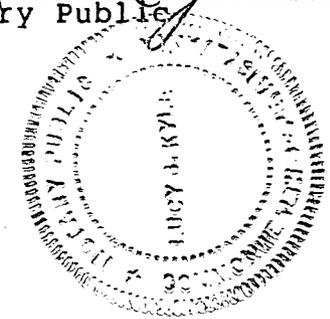
My Commission expires MY COMMISSION EXPIRES JANUARY 7, 1977

COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF LEHIGH.)

On this *7th* day of November, 1974, before me personally appeared *FRANCIS VAN NUYS* to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, 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.

Lucy B. Kyle
Notary Public

My Commission expires
My Commission Expires
August 14, 1978
City of Bethlehem
Lehigh County



SCHEDULE I

Conditional Sale Agreement

Allocation Schedule
on \$1,000,000 Investment

<u>Payment Number</u>	<u>Principal Balance</u>	<u>Payments Allocated to</u>		<u>Total Payment</u>	<u>Payment Date</u>
		<u>Principal</u>	<u>Interest</u>		
1	1,000,000.00	21,541.19	55,625.01	77,166.20	December 1, 1975
2	978,458.81	22,739.41	54,426.79	77,166.20	June 1, 1976
3	955,719.40	24,004.29	53,161.91	77,166.20	December 1, 1976
4	931,715.11	25,339.53	51,826.67	77,166.20	June 1, 1977
5	906,375.58	26,749.04	50,417.16	77,166.20	December 1, 1977
6	879,626.54	28,236.96	48,929.24	77,166.20	June 1, 1978
7	851,389.58	29,807.64	47,358.56	77,166.20	December 15, 1978
8	821,581.94	31,465.69	45,700.51	77,166.20	June 1, 1979
9	790,116.25	33,215.97	43,950.23	77,166.20	December 1, 1979
10	756,900.28	35,063.61	42,102.59	77,166.20	June 1, 1980
11	721,836.67	37,014.02	40,152.18	77,166.20	December 1, 1980
12	684,822.65	39,072.93	38,093.27	77,166.20	June 1, 1981
13	645,749.72	41,246.36	35,919.84	77,166.20	December 1, 1981
14	604,503.36	43,540.69	33,625.51	77,166.20	June 1, 1982
15	560,962.67	45,962.67	31,203.53	77,166.20	December 1, 1982
16	515,000.00	39,195.88	28,646.89	67,842.77	June 1, 1983
17	475,804.12	41,376.15	26,466.62	67,842.77	December 1, 1983
18	434,427.97	43,677.70	24,165.07	67,842.77	June 1, 1984
19	390,750.27	46,107.27	21,735.50	67,842.77	December 1, 1984
20	344,643.00	30,751.72	19,170.78	49,922.50	June 1, 1985
21	313,891.28	32,462.28	17,460.22	49,922.50	December 1, 1985
22	281,429.00	27,116.63	15,654.50	42,771.13	June 1, 1986
23	254,312.37	28,625.00	14,146.13	42,771.13	December 1, 1986
24	225,687.37	30,217.26	12,553.87	42,771.13	June 1, 1987
25	195,470.11	31,898.11	10,873.02	42,771.13	December 1, 1987
26	163,572.00	30,578.53	9,098.70	39,677.23	June 1, 1988
27	132,993.47	32,279.47	7,397.76	39,677.23	December 1, 1988
28	100,714.00	31,771.28	5,602.22	37,373.50	June 1, 1989
29	68,942.72	33,538.56	3,834.94	37,373.50	December 1, 1989
30	35,404.16	35,404.16	1,969.34	37,373.50	June 1, 1990

ANNEX A

TO

CONDITIONAL SALE AGREEMENT

- Item 1: (a) Thrall Car Manufacturing Company, a Delaware corporation, having an address at P.O. Box 218, Chicago Heights, Illinois 60411.
- (b) Bethlehem Steel Corporation, a Delaware corporation, having an address at Bethlehem, Pennsylvania 18016.
- Item 2: The Equipment shall be settled for in not more than two Groups (one per Builder) of units of the Equipment delivered to and accepted by the Vendee, unless a greater number shall be agreed to by the parties hereto.

- Item 3: (a) THRALL

The Builder warrants that the units of its Equipment will be built in accordance with the Specifications and other requirements, specifications and standards set forth or referred to in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (hereinafter called the Agreement) and that its Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Vendee or the Lessee and not manufactured by the Builder), workmanship and design (except as to designs specified by the Vendee or the Lessee and not developed or purported to be developed by the Builder) under normal use and service, the Builder's obligation under this Item 3 being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit to the Vendee, be returned to the Builder with transportation charges prepaid and which the Builder's examination shall disclose to its

satisfaction to have been thus defective. The Builder shall not be liable for indirect or consequential damages resulting from defects in material, design, construction or workmanship. The foregoing warranty is expressly in lieu of all other warranties, express or implied, including any implied warranty or merchantability or fitness for a particular purpose, and of all other obligations or liabilities on the part of the Builder, except for its obligations under Articles 2, 3 and 14 of the Agreement, and the Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment except as aforesaid. The Builder further agrees with the Vendee and the Lessee that the acceptance of any units of the Equipment as provided in Article 3 of the Agreement shall not be deemed a waiver or a modification by the Vendee of any of its rights under this Item 3.

(b) BETHLEHEM

The Builder warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Article 2 of the Conditional Sale Agreement to which this Schedule A is attached (hereinafter called the Agreement) and warrants its Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Vendee or the Lessee and not manufactured by the Builder) and workmanship and design under normal use and service, the Builder's obligation under this Item 3 being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit to the Vendee, be returned to the Builder with transportation charges prepaid and which the Builder's examination shall disclose to its satisfaction to have been thus defective. In no event shall the Builder be liable to anyone for any incidental, special or consequential damages of any kind.

The foregoing warranty of the Builder is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and of all other obligations or liabilities on the part of the Builder, except for its obligations under Articles 2, 3, 4 and 14 of the Agreement, and the Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid.

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

Item 4: Except in cases of articles or materials specified by the Vendee or Lessee and not manufactured by a Builder and in cases of designs, systems, processes, formulae or combinations specified by the Vendee or Lessee and not developed or purported to be developed by any Builder, each Builder agrees to indemnify, protect and hold harmless the Vendee and Lessee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendee or Lessee, its assigns or the users of its respective Equipment because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Vendee or Lessee likewise will indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any of the Equipment of any

article or material specified by the Vendee or Lessee, as the case may be, and not manufactured by a Builder or of any design, system, process, formula or combination specified by the Vendee or Lessee and not developed or purported to be developed by a Builder which infringes or is claimed to infringe on any patent or other right. Each Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Vendee and Lessee every claim, right and cause of action which such Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Vendee or Lessee and purchased or otherwise acquired by such Builder for use in or about the construction or operation of any of the Equipment, on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. Each Builder further agrees to execute and deliver to the Vendee and Lessee or the users of the Equipment all and every such further assurance as may be reasonably requested by the Vendee or Lessee more fully to effectuate the assignment and delivery of every such claim, right and cause of action. Each Builder will give notice to the Vendee and Lessee of any claim known to such Builder from which liability may be charged against the Vendee and Lessee hereunder and the Vendee (if in possession of the Equipment) and Lessee will give notice to the appropriate Builder of any claim known to either of them from which liability may be charged against any Builder hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under the Agreement, or the satisfaction, discharge or termination of the Agreement in any manner whatsoever.

Item 5: The Maximum Purchase Price referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is \$4,240,000.

ANNEX B

TO

CONDITIONAL SALE AGREEMENT

<u>Builder</u>	<u>Type</u>	<u>Builder's Specifica- tions</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
Thrall Car Manufactur- ing Company	100 ton Steel High Side Gondolas	GN-100- 46-132	Chicago Heights, Illinois	80	PEPX 1-80	24,500	\$1,960,000	November 1978, at East Chicago, Indiana
Bethlehem Steel Corporation	100 ton Steel 3 Gate Hopper Cars	DF 3400- 389 dated March 3, 1975	Johnstown, Pennsylvania	80	PEPX 601-680	28,500	\$2,280,000	March 1978, at Johnston, Pennsyl- vania

ANNEX C
TO
CONDITIONAL SALE AGREEMENT

LEASE OF RAILROAD EQUIPMENT dated as of October 15, 1974, between POTOMAC ELECTRIC POWER COMPANY (hereinafter called the Lessee) and CHASE MANHATTAN SERVICE CORPORATION (hereinafter called the Lessor).

WHEREAS the Lessor and the Lessee are entering into a conditional sale agreement dated as of the date hereof with Thrall Car Manufacturing Company and Bethlehem Steel Corporation (such agreement being hereinafter called the Security Document and such parties being hereinafter called the Builders) wherein the Builders have agreed to manufacture, sell and deliver to the Lessor the units of railroad equipment described opposite the respective names in Schedule A hereto (hereinafter called the Equipment);

WHEREAS the Builders are assigning their respective interests in the Security Document to American Security & Trust Company, as Agent (hereinafter, together with its successors and assigns, called the Vendor); and

WHEREAS the Lessee desires to lease such number of the units of the Equipment as are delivered and accepted and settled for under the Security Document (hereinafter called the Units) 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 Units to the Lessee upon the following terms and conditions:

§ 1. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Document, including the Lessee's rights by subrogation thereunder, or the Builders or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or

loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction of the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or the bankruptcy, insolvency or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the time herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Document. The Lessor will cause each Unit to be delivered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Document. Upon such delivery, the Lessee will cause an employee of or other person retained by the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Document, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 3. Rentals. The Lessee agrees to pay to the Lessor during the Original Term of this Lease, as rental

for each Unit subject to this Lease, 31 consecutive semiannual payments payable on June 1 and December 1 in each year, commencing June 1, 1975. The rental payment payable on June 1, 1975, shall be in an amount equal to 0.0324833% of the Purchase Price (as defined in the Security Document) of each Unit then subject to this Lease for each day (computed on the basis of a 360-day year of twelve 30-day months) elapsed from the Closing Date (as defined in the Security Document) for such Unit to and including the date of such payment. The next 30 rental payments shall each be in an amount equal to 5.847% of the Purchase Price of each Unit then subject to this Lease.

The rental payments hereinbefore set forth are subject to adjustment pursuant to § 17 hereof. If any of the semiannual rental payment dates referred to above is not a business day the semiannual rental payment otherwise payable on such date will be payable on the next preceding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Washington, District of Columbia, are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease at the principal office of the Vendor, for the account of the Lessor, in care of the Vendor, with instructions to the Vendor first, to apply such payments to satisfy the obligations of the Lessor then due under the Security Document, subject to the limitations contained in Article 23 and in the penultimate paragraph of Article 4 of the Security Document and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Document could constitute an event of default under the Security Document (any such default, event of default or event being hereinafter called a Default) shall have occurred and be continuing, to pay any balance promptly to The Chase Manhattan Bank (N.A.) at One Chase Manhattan Plaza for the account of the Lessor, or to the Lessor at such other place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in immediately available funds in the city where such payment is to be made.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and accep-

tance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3 hereof. The "Original Term" of this Lease as to such Unit shall mean such term, without giving effect to the provisions of §§ 7, 10 and 13.

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

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20" and other appropriate words if designated by the Lessor, with appropriate changes thereof and additions thereto, as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the Vendor under the Security Document. The Lessor may mark each Unit to identify the Lessor's interest in such Unit. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited, and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect set forth in subparagraph A(3) of § 15 hereof in respect of such statement.

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

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor and its affiliates with respect to the amount of any local, state, federal or foreign taxes (other than (1) taxes on, based on, or measured by, the net income of the Lessor imposed by the United States; (2) taxes on, based on, or measured by the net income of the Lessor imposed by any jurisdiction other than the United States and other than the jurisdiction in which the principal office of the Lessor is located, in which none of the Units have been operated or stored by the Lessee or otherwise been present at any time during the term of this Lease; (3) taxes on, based on, or measured by, the net income of the Lessor imposed by any other jurisdiction to the extent imposed by (a) the jurisdiction in which the principal office of the Lessor is located or (b) any other jurisdictions in which the Lessor shall be subject to any tax based on, or measured by, net income but only to the extent that (i) any income of the Lessor attributable to this Lease or the transactions contemplated hereby is not subject to tax imposed by the jurisdiction in which its principal office is located and (ii) the amount of the tax payable by the Lessor to such other jurisdictions does not exceed the amount of the tax that would be payable to the jurisdiction in which its principal office is located if that income were subject to tax in that jurisdiction) or license fees, interest, assessments, charges, fines or penalties (all such expenses, taxes, license fees, interest, assessments, charges, fines and penalties being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by or resulting from, or affected by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or of the Security Document, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein; provided, however, the term imposition shall not include taxes arising out of, or based on, (i) any sale to the Lessee pursuant to § 13 hereof or any sale or other disposition of a Unit other than a sale pursuant to §§ 7 and 10 hereof or Article 17 of

the Security Document while any Event of Default hereunder has occurred and is continuing, or (ii) any reduction by the Lessor of its interest in the rentals from such Unit under this Lease. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use of operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor and its affiliates by reason of its ownership or leasing thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings (in its own or in the Lessor's name) such impositions and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder or the Vendor under the Security Document. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor; provided, however, that the Lessee shall not be obligated to reimburse the Lessor for any impositions so paid unless the Lessor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or unless the Lessee shall have approved the payment thereof, which approval shall not be unreasonably withheld.

In the event that the Lessor shall become obligated to make any payment pursuant to any tax indemnity provision of the Security Document not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

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

The indemnity provided for in this § 6 shall be in an amount which, after deducting all impositions imposed with

respect to the receipt thereof, shall be equal to the amount of the impositions required to be paid by the Lessor.

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

§ 7. Payment for Casualty Occurrences; Insurance.

In the event that any Unit shall be or become lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise, or in the reasonable opinion of the Lessee shall be worn out (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such notice the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as herein defined) of such Unit as of the date of such payment in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit and the provisions of § 14 hereof shall apply to such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis without representation or warranty by the Lessor. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

Subject to any adjustment as provided in the third and tenth paragraphs of § 17 hereof, the Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in the following schedule opposite such date:

<u>Date</u>	<u>Percentage</u>
June 1, 1975	106.810
December 1, 1975	110.345
June 1, 1976	106.647
December 1, 1976	106.913
June 1, 1977	106.856
December 1, 1977	106.382
June 1, 1978	102.665
December 1, 1978	101.514
June 1, 1979	100.075
December 1, 1979	98.298
June 1, 1980	93.311
December 1, 1980	90.973
June 1, 1981	88.392
December 1, 1981	85.582
June 1, 1982	79.655
December 1, 1982	76.501
June 1, 1983	73.176
December 1, 1983	59.700
June 1, 1984	66.065
December 1, 1984	62.307
June 1, 1985	58.430
December 1, 1985	54.504
June 1, 1986	50.445
December 1, 1986	46.353
June 1, 1987	42.112
December 1, 1987	37.847
June 1, 1988	33.439
December 1, 1988	29.004
June 1, 1989	24.414
December 1, 1989	19.797
June 1, 1990	15.000
December 1, 1990 and thereafter	

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

The Lessee will, at all times while this Lease is in effect, at its own expense, cause to be carried and maintained property insurance in respect of the Units at the time subject hereto, and public liability insurance, in amounts, with deductibles not to exceed \$100,000 (which amount may be increased by the Lessee with the consent of the Lessor,

which consent will not be unreasonably withheld) and against risks customarily insured against by the Lessee in respect of similar equipment owned by it and the benefits thereof shall be payable to the Vendor, the Lessor and the Lessee, as their interests may appear (provided, however, that all proceeds of public liability insurance shall be payable to the Vendor only to the extent necessary to reimburse it for losses suffered by it covered by such public liability insurance policies), so long as the indebtedness, if any, evidenced by the Security Document shall not have been paid in full, and thereafter to the Lessor and the Lessee as their interests may appear. All policies of insurance shall contain a breach of warranty clause (which shall provide that the interests of the Vendor or the Lessor thereunder shall not be rescinded, impaired or invalidated by any act or neglect of the Lessee) and shall provide for a thirty-day minimum written cancellation notice to the Vendor and the Lessor. The Lessee agrees to furnish to the Vendor and the Lessor concurrently with the commencement of the term of this Lease and at least annually thereafter certificates or other evidence of compliance by the Lessee with the provisions of this paragraph. In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option effect such insurance and, in such event, the Lessee shall upon demand reimburse the Lessor for the cost thereof. Any insurance proceeds received by the Lessor as the result of insurance carried by the Lessee or condemnation payments received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 7. If the Lessor shall receive any such insurance proceeds or condemnation payments after the Lessee shall have made payments pursuant to this § 7 without deduction for such insurance proceeds or such condemnation payments, the Lessor shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

§ 8. Reports. On or before March 31 in each year, commencing with the calendar year 1976, the Lessee

§ 8. Reports. On or before March 31 in each year, commencing with the calendar year 1976, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as of the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such statement) or are then undergoing repairs (other than running repairs) or are withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (b) stating whether, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and the Security Document have been preserved or replaced and (c) stating whether all reports required to be made to the Lessor hereunder during the preceding year have been made. The Lessor shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

Within 15 days after the filing thereof with the Securities and Exchange Commission under the Securities Exchange Act of 1934, the Lessee will promptly furnish to the Lessor, the Vendor and any party for whom the Vendor is acting as agent who shall so request a copy of each of Lessee's Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q.

As soon as available and in any event within 120 days after the end of each fiscal year, the Lessee will deliver to the Lessor and the Vendor a certificate signed by the President, any Vice President, the Treasurer or any Assistant Treasurer of the Lessee stating that a review of the activities of the Lessee during such year has been made under his supervision with a view to determining whether the Lessee has kept, observed, performed and fulfilled all of its covenants and obligations under this Lease and the Security Document and that to the best of his knowledge the Lessee during such year has kept, observed, performed and fulfilled each and every covenant and obligation contained herein and in the Security Document, or if an Event of Default under this Lease or an event of default under the Security Document shall exist or if an event has occurred

and is continuing which, with the giving of notice or the passage of time or both, would constitute such an Event of Default or an event of default, specifying such Event of Default, event of default or such event and the nature and status thereof.

The Lessee shall also furnish such other financial information as the Lessor, Vendor or any party for whom the Vendor is acting as agent may reasonably request from time to time.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builders under the provisions of Items 3 and 4 of Annex A to the Security Document. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters. Notwithstanding the first sentence of this § 9, the Lessor represents and warrants that it has full right, power and authority to enter into and perform this Lease and agrees that the Units will at all times remain free of liens and encumbrances which may result from claims against the Lessor not related to the right, title and interest of the Lessor in the Units, the leasing of the Units hereunder or any transaction pursuant to or permitted by the Security Document or this Lease and excluding all claims which the Lessee is obligated to pay, or indemnify the Lessor against, hereunder.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all material respects (including,

without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules are reasonably interpreted as being applicable to, or affecting, the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Document.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in good order and repair, ordinary wear and tear excepted.

Any and all additions to any Unit (except communications, signal and automatic control equipment or devices having a similar use which have been added to such Unit by the Lessee, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body), and any and all parts installed on and additions and replacements made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Document) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself.

The Lessee agrees to indemnify, protect and hold harmless the Lessor and the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of, or the occurrence of a default

or an Event of Default under, the Security Document, the Assignment, this Lease or the Lease Assignment, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in §§ 6, 14 and 17 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the expiration or the termination of the term of this Lease.

The indemnities provided by this Section 9 shall be in an amount which, after deducting all taxes, fees or other charges imposed with respect to the receipt thereof, shall be equal to the amount of the loss, expense or liability with respect to which the indemnification payment is made.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

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

A. default shall be made in payment of any part of the rental provided in § 3 hereof, and such default shall continue for ten days;

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

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Security Document, and such default shall continue for 30 days after the Lessor or Vendor shall have demanded in writing the performance thereof or to make provision satisfactory to the Vendor or Lessor, as the case may be, for such compliance;

D. any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or under the Security Document under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or under the Security Document), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and under the Security Document shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

E. an event of default shall occur under any lease, agreement, equipment trust agreement or indenture under which the Lessee is an obligor and under which the aggregate unpaid lease rentals or indebtedness is not less than \$2,000,000, the obligee or obligees thereunder or trustees on its or their behalf shall have declared the principal amount of the obligations issued or secured thereby to become immediately due or payable in accordance with the terms thereof and such declaration shall not have been annulled within ten days after receipt by the Lessee of notice thereof;

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

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including without limitation § 17 hereof, the indemnity provisions of § 9 hereof and the second paragraph of this § 10; or

(b) by notice in writing to the Lessee terminate the term of this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee whichever of the following the Lessor shall elect

(A) as liquidated damages for loss of the bargain and not as a penalty, an amount, with respect to each Unit, equal to the sum of (i) the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for such Unit during such period (or, if the Lessor so elects, over the aggregate net proceeds of any sale of the Units sold by the Lessor or the Vendor under the Security Document at one or more public or private sales plus, if any of the Units are not so sold, the then fair market value of such Units as reasonably estimated by the Lessor) such present value to be computed in each case on the basis of a 5% per annum discount, compounded semiannually 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 attorneys' fees, in addition thereto which the Lessor shall have sustained by reason

of the breach of any covenant, representation or warranty of this Lease; or

(B) if the Lessor (or the Vendor under the Security Document) elects to sell any or all of the Units or Equipment at one or more public or private sales (the Lessor to give the Lessee at least 30 days notice of such election), as liquidated damages for loss of the bargain and not as a penalty, an amount equal to the following, reduced by the aggregate net proceeds of such sale or sales: (i) the aggregate Casualty Value of all Units of Equipment on the rental payment date next preceding the date of the sale next preceding the date of the Lessor's demand for payment to the Lessee under this paragraph (B); plus (ii) the amount provided for by clause (ii) of paragraph (A) above. Upon payment in full of the amounts provided for by this paragraph (B), all right, title and interest of the Lessor in the Units or Equipment not sold pursuant to this paragraph (B) shall pass to the Lessee (on an "as is, where is" basis, without representation or warranty by the Lessor).

In the event of any sale or other disposition of any Unit, pursuant to the exercise of remedies provided for by this § 10, the Lessee shall indemnify the Lessor in such amount as will, after taking account of all taxes imposed with respect to the receipt thereof, be equal to any additional income taxes incurred, or income tax benefits lost, by reason of such sale, exchange or other disposition of any Unit or portion thereof resulting in a loss to the Lessor which is not deductible in full as an ordinary loss for federal income tax purposes. In addition, in the event of any such sale or other disposition of a Unit, unless the Lessor has elected to proceed under subparagraph (B) of paragraph (b) above, the Lessee shall indemnify the Lessor in such amount as will, after deducting all taxes imposed with respect to the receipt thereof, be equal to all or such portion of the Investment Credit and/or the ADR Deductions (both as defined in § 17 hereof) lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as the result of such sale or disposition; provided that the amount payable by the Lessee under this sentence, when added to the amount determined in accordance with subclause (y) of clause (i) of paragraph (A) above,

shall not exceed the aggregate Casualty Value of such Unit on the rental payment date next preceding the date of the Lessor's demand for payment under said paragraph (A).

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

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

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

(a) forthwith and in the usual manner place such Units upon such storage tracks located within 100 miles of Washington, D.C., as the Lessor reasonably may designate; and

(b) permit the Lessor or cause the Lessor to be permitted to store such Units on such tracks at the risk of the Lessee without charge for rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor, but in no event for a period to exceed 270 days.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree

against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

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

So long as the Lessee shall not be in default under this Lease or under the Security Document the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the Security Document, but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease, in the Units or any of them. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Security Document, the Assignment or the Lease Assignment or an encumbrance securing a claim created by the Lessor not related to the right, title and interest of the Lessor in the Units, the leasing of the Units hereunder or any transaction pursuant to or permitted by the Security Document or this Lease and excluding all encumbrances securing claims which the Lessee is obligated to

pay, or indemnify the Lessor against, hereunder) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor and the Lessor, adversely affect the interests of either of them in or to the Equipment or otherwise under this Agreement or the Security Document. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

Nothing in this Section shall: (a) prevent the Lessee from merging or consolidating with, or transferring all or substantially all of its assets to, another solvent corporation, provided that the corporation surviving such merger or consolidation (if other than the Lessee), or the corporation to which such assets are transferred, shall assume, by operation of law or otherwise, all of the Lessee's obligations hereunder; (b) prevent the Lessee from assigning its leasehold interest hereunder or in the Units to a corporation controlling, controlled by, or under common control with, the Lessee (any such corporation being herein referred to as an "affiliate" of the Lessee), provided that no such assignment shall relieve the Lessee from its obligations hereunder; or (c) prevent, or require the Lessee to take any action in respect of, the attachment of the lien of the Mortgage and Deed of Trust dated July 1, 1936, of the Lessee to The Riggs National Bank of Washington, D. C., as Trustee, as amended and supplemented (the "Mortgage"), to the Lessee's leasehold interest hereunder in and to the Units. The Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America.

§ 13. Renewal Options and Right of First Refusal.
 Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than three months prior to the end of the Original Term or any extended term of this Lease, as the case may be, elect to

extend the term of this Lease in respect of, all but not fewer than all, of the Units then covered by this Lease, for a consecutive extended term or terms of 1 year or any integral multiple thereof, the first of which shall commence on the scheduled expiration of the Original Term of this Lease; provided, however, that the aggregate of all such extended terms shall not exceed ten years. Rental in each case shall be at a "Fair Market Rental" payable in semiannual payments on June 1 and December 1 in each year of such extended term.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. If on or before 60 days prior to the expiration of the term of this Lease immediately preceding the extended term for which the rental is to be determined, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by an Appraiser. The term Appraiser shall mean such qualified independent appraiser as the Lessor may select with the approval of the Lessee, or failing such approved selection, a panel of three qualified independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

In the event the Lessor elects to sell such Units to third parties at the expiration of the Original Term or extended term of this Lease, the Lessor shall in a commercially reasonable manner solicit offers to buy such Units, and upon receipt thereof shall exhibit to the Lessee a true copy of the offer which the Lessor intends to accept, and the Lessee shall have the right, exercisable by written notice, delivered within 15 days of the receipt of said copy, to purchase such Units at the sale price set forth

in such offer, provided that the Lessee shall tender payment of the purchase price prior to the later of the intended date of sale to the third party making such offer or the date five days following the expiration of such 15-day period (such payment to be made in the same manner contemplated by such offer).

Upon payment of the purchase price, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor other than claims, liens, security interests and other encumbrances arising from the Security Document) for such Units and such other documents as may be required to release such Units, from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

§ 14. Return of Units upon Expiration of Term.

As soon as practicable on or after the expiration of the Original Term or any extended term of this Lease with respect to any Unit not purchased by the Lessee, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such tracks located within 100 miles of Washington, D.C., as the Lessor may reasonably designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months all as directed by the Lessor, the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee

requiring specific performance of the covenants of the Lessee so to assemble, deliver and store the Units. Each Unit returned to the Lessor pursuant to this § 14 (other than a Unit which has suffered a Casualty Occurrence) shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and (ii) meet the applicable standards then in effect under the Interchange Rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction. If the Lessor shall elect to abandon any Unit as to which this Lease has terminated, it may within 90 days after such termination deliver written notice to such effect to the Lessee and the Lessee shall within 15 days of the delivery of such notice assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, other than liability arising in respect of any occurrence between such termination and such assumption (other than any such occurrence while such Unit is being assembled, moved or stored at the risk of the Lessee as above provided). The Lessor shall execute and deliver to the Lessee a bill of sale or bills of sale transferring to the Lessee, or upon its order, the Lessor's title to and property in any Unit abandoned by it pursuant to the immediately preceding sentence. Except as provided in this §14, the Lessee shall have no liability to the Lessor in respect of any Unit abandoned by the Lessor after termination of the Lease; provided, however, that the foregoing clause shall not in any way effect the survival of the indemnities of the Lessee under this Lease which continue after the termination of this Lease or relieve the Lessee of its obligations pursuant to § 7 hereof to make payments equal to the Casualty Value of any Unit experiencing a Casualty Occurrence while this Lease is in effect.

§ 15. Opinions of Counsel. On each Closing Date the Lessee will deliver to the Lessor two counterparts of written opinions of counsel for the Lessee, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor, the Vendor and their respective counsel, as follows:

A. an opinion of Messrs. Sullivan & Cromwell to the effect that:

1. the Lessee is a corporation legally incorporated, validly existing and in good standing under

the laws of its jurisdictions of incorporation (specifying the same) with adequate corporate power to own its properties and to carry on its business as now conducted, and to enter into the Finance Agreement, the Security Document and this Lease;

2. the Finance Agreement, the Security Document and this Lease have been duly authorized, executed and delivered by the Lessee and constitute legal, valid and binding agreements of the Lessee, enforceable in accordance with their respective terms except as limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and by applicable laws which may affect the remedies provided in the Security Document or this Lease, which laws, however, do not in the opinion of such counsel make the remedies provided in such documents inadequate for the realization of the benefits provided thereby, and by principles of equity applicable to the enforceability of the remedy of specific performance.

3. the Security Document (and any assignment thereof) and this Lease (and any assignment hereof) have been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and no filing, recording or deposit (or giving of notice) with any other federal, state or local government or agency thereof is necessary in order to protect the interests of the Vendor or the Lessor in and to the Units in the United States of America;

4. approvals have been obtained from the Virginia State Corporation Commission and the District of Columbia Public Service Commission, and no other approval is required from any public regulatory body with respect to the entering into or performance of the Security Document or this Lease;

5. the entering into and performance of the Security Document or this Lease will not result in any breach of, or constitute a default under, the Mortgage or the Indenture of the Lessee to

The Chase Manhattan Bank, as successor trustee, dated as of February 15, 1957, as supplemented (the "Indenture"); and

6. the Lessee is not a "holding company" or a "subsidiary" of a "holding company" registered under the Public Utility Holding Company Act of 1935;

B. an opinion of an Associate General Counsel of the Lessee to the effect that:

1. the entering into and performance of the Security Document or this Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument known to such counsel to which the Lessee is a party or by which it may be bound, except that such opinion need not cover the Mortgage or the Indenture;

2. under the agreements referred to in the preceding paragraph, no lien of any nature whatsoever attaches to the Units except the lien of the Mortgage which attaches to the leasehold interest of the Lessee hereunder in and to the Units.

§ 16. Recording. The Lessee, at its own expense, will cause this Lease, the Security Document and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the Security Document and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, re-register, deposit and redeposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Document or the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidences of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security

Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 17. Income Taxes. The Lessor and the Lessee agree that the rentals and Casualty Values set forth in §§ 3 and 7 of this Lease have been computed on the assumption that, as each Unit is accepted as provided in § 2 hereof, the Lessor shall thereupon be treated as the owner and the lessor of such Unit under a true lease for purposes of the Internal Revenue Code of 1954, as amended to the date hereof (the "Code") and that Lessor shall be entitled, for Federal income tax purposes, to deductions with respect to interest paid or accrued under the Security Document (the "Interest Deductions"), the investment tax credit provided by Section 38 and related sections of the Code computed at a rate of at least 4% of the full Purchase Price of the Units (the "Investment Credit") and deductions for depreciation for each Unit, which depreciation deductions may be taken under the asset depreciation range system of Treasury Regulation 1.167(a)-11 on a cost basis under Section 167(g) of the Code at least equal to the full Purchase Price of such Unit using one or more accelerated methods described in Section 167(b) of the Code, under asset guideline class 00.25, over an asset depreciation period of 12 years, to a salvage value (after application of Section 167(f) of the Code), of 5% of the Purchase Price of such Unit (the "ADR Deductions").

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will take any action or file any returns or other documents inconsistent with the foregoing except as may be required by law or this Lease or the Security Document and that each of such corporations will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof.

If for any reason the Lessor is or becomes entitled prior to the Cut-Off Date (as defined in Article 4 of the Security Document) to the investment tax credit provided by Section 38 and related sections of the Code, or any similar or substitute credit in lieu thereof, computed at a rate in excess of 4% of the full Purchase Price of any or all of the Units, all references herein to the Investment Credit when used with respect to such Units shall mean such credit computed at such rate and (i) the rentals and Casualty Values

set forth in §§ 3 and 7 of this Lease and (ii) the amount payable by the Lessor under subparagraph (a) of the third paragraph of Article 4 of the Security Document and the Conditional Sale Indebtedness (as defined therein) with respect to Units thereafter delivered under the Security Document, shall be appropriately adjusted; provided, however, that in no event shall (a) the aggregate Conditional Sale Indebtedness be increased; (b) any semiannual rental payment pursuant to § 3 of this Lease be less than the principal and interest due on the date of such payment under the Security Document; (c) any Casualty Value hereunder so adjusted of any Unit be less than the Casualty Value (as defined in the Security Document) of such Unit; or (d) the aggregate amount payable by the Lessor under subparagraph (a) of the third paragraph of Article 4 of the Security Document in respect of all Units exceed \$1,200,000 (unless the Lessor otherwise agrees). Notwithstanding the foregoing if the Lessor shall claim on its Federal income tax return the investment tax credit computed at a rate in excess of 4% of the full Purchase Price of any or all of such Units, the Lessor shall give notice to the Lessee of such action within 30 days of the filing of the tax return in which such item is claimed, all references herein to the Investment Credit when used with respect to such Units shall thereupon mean such credit computed at such rate and the rentals and Casualty values set forth in §§ 3 and 7 of this Lease shall be appropriately adjusted in respect of such Units as of the rental payment date next succeeding such notice; provided, however, in no event shall (a) any semiannual rental payment pursuant to § 3 of this Lease be less than the principal and interest due on the date of such payment under the Security Document; or (b) any Casualty Value hereunder so adjusted of any Unit be less than the Casualty Value (as defined in the Security Document) of such Unit. If, in respect of the adjustments provided for in either of the first and second sentences of this paragraph, the Lessor and the Lessee cannot agree on the amount of such adjustments required thereunder, the Lessor and the Lessee shall mutually designate a firm of independent certified public accountants of national reputation and stature which is experienced in the financial leasing business to determine, at the sole expense of Lessee, the appropriate amount of such adjustments in accordance with the applicable assumptions referred to in clause (x) of the fifth paragraph of this § 17, which determination shall be final and binding upon the Lessor and the Lessee.

Unless the provisions of the eleventh paragraph of this § 17 shall have become applicable, the Lessor agrees

that it shall claim on its Federal income tax return the Investment Credit, the ADR Deductions and the Interest Deductions, respectively, and that the Lessee shall be relieved of the obligation to indemnify the Lessor with respect to any such item pursuant to the next succeeding paragraph to the extent such item is not so claimed by the Lessor, unless the Lessor shall have received a written opinion of Messrs. Milbank, Tweed, Hadley & McCloy or other independent tax counsel selected by the Lessor and approved by the Lessee that there is no reasonable basis for the Lessor to claim such item or items. If the Lessor receives such opinion to the effect that there is no reasonable basis for claiming such an item and if the Lessor determines in its sole discretion not to claim such an item on its tax return, the Lessor shall be treated as not entitled to claim such item for the purpose of the next succeeding paragraph.

If for any reason (other than the occurrence of any of the events set forth in the next succeeding paragraph) the Lessor, in respect of the Original Term of this Lease, shall lose, or shall not have, or shall suffer a disallowance of or shall not be entitled to claim (in accordance with the immediately preceding paragraph) or shall be required to recapture all or any portion of the Investment Credit, the ADR Deductions, or the Interest Deductions (any such event being hereinafter called a Loss), then at the option of the Lessee on the rental payment date next succeeding written notice to the Lessee by the Lessor of such Loss (such option to be elected by written notice to the Lessor on or before such rental payment date), (x) the rentals for the Units provided for by § 3 hereof in respect of the remainder of the Original Term of this Lease shall be increased or decreased to such amount or amounts as will cause the Lessor's net after-tax cash flows over the Original Term of this Lease (computed on the same assumptions (but for the assumption or assumptions that failed, resulting in the Loss or Losses), including tax rates, as were utilized by the Lessor in computing the rentals and the Casualty Values set forth in §§ 3 and 7 of this Lease, which assumptions will be made available to the Lessee upon the Lessee's request, and taking account of any interest or penalties payable by the Lessor as a result of any such Loss, of any increase or decrease in the Lessor's liability for tax under the New York State Franchise Tax on Financial Companies and the New York City Financial Corporation Tax resulting from any such Loss and any taxes payable by the Lessor in respect of any payments received by the Lessor pursuant to this paragraph) to equal the net after-tax cash flows

that would have been realized by the Lessor if such Loss had not occurred, provided, however, that if the Lessor and the Lessee cannot agree on such amount or amounts, the Lessor and the Lessee shall mutually designate a firm of independent certified public accountants of national reputation and stature which is experienced in the financial leasing business to determine, at the sole expense of the Lessee, such amount or amounts in accordance with the foregoing assumptions and standards, which determination shall be final and binding upon the Lessor and the Lessee, or (y) the Lessee shall pay to the Lessor an amount equal to the present value of the difference between the rentals provided for by § 3 hereof in respect of the remainder of the Original Term of this Lease and the rentals as increased by the preceding clause (x), such present value to be computed on the basis of a 5% per annum discount, compounded semiannually as of each rental payment date.

Notwithstanding the provisions of the immediately preceding paragraph, the payments under clause (x) or clause (y) thereof need not be made in respect of any Loss to the extent such Loss is a direct result of the occurrence of any of the following events:

(i) any change in tax law (as defined below) which occurs or becomes effective on or after the date of the receipt of the Rulings (or if some but not all of the Rulings have been received, the date of the receipt of the Rulings in respect of the matters affected by the change);

(ii) any act or failure to act of the Lessor (other than as required pursuant to this Lease or the Security Document or as may be the result of an act or failure to act of Lessee) or any misrepresentation of or failure to represent a material fact within its actual exclusive knowledge on the part of Lessor in connection with the Rulings (as defined below);

(iii) a Casualty Occurrence with respect to a Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under § 7 hereof;

(iv) a voluntary transfer or other voluntary disposition by the Lessor, or any transfer or disposition by the Lessor resulting from the bankruptcy or other proceedings for the relief of debtors in which the

Lessor is debtor, whether voluntary or involuntary, of any interest in a Unit or the voluntary reduction by the Lessor of its interest in the rentals from a Unit under this Lease (except pursuant to the Assignment of Lease and Agreement dated as of the date hereof);

(v) the failure of the Lessor to claim in a timely or proper manner the Investment Credit, the ADR Deductions (including making all appropriate elections under the applicable Income Tax Regulations) or the Interest Deductions; or

(vi) the failure of the Lessor to have sufficient liability for Federal income tax against which to credit such Investment Credit or sufficient income to benefit from the ADR Deductions or the Interest Deductions, as applicable.

For the purposes of the preceding paragraph, a change in tax law shall mean any amendment to the Code or the Regulations promulgated thereunder, any published rulings or procedures (such as Revenue Rulings, Revenue Procedures, and similar decisions of the Internal Revenue Service that may be used as precedent by the Internal Revenue Service) issued by the Internal Revenue Service, the enactment or amendment of any statute or the issuance of any executive order or other decree.

In the event a claim shall be made by the Internal Revenue Service in respect of a proposed adjustment to investment credits or depreciation or interest deductions claimed on a United States Federal income tax return of the Lessor which claim, if successful, could result in a Loss for which the Lessee would be required to indemnify the Lessor pursuant to the fifth paragraph of this § 17, the Lessor hereby agrees to contest such claim if the Lessee so requests, and the Lessee's obligation to indemnify the Lessor with respect to such claim shall be conditioned upon the making of such contest by the Lessor, provided that: (i) within 30 days after notice by the Lessor to the Lessee of such claim, the Lessee shall request that such claim be contested; (ii) the Lessee shall furnish the Lessor with an opinion of Messrs. Sullivan & Cromwell or other independent tax counsel selected by the Lessee and approved by the Lessor to the effect that meritorious grounds exist to contest such claim; (iii) the Lessor, at its sole option, may forego any and all administrative

appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such claim and may, at its sole option, either pay the tax claimed and sue for a refund in the appropriate United States District Court and/or the United States Court of Claims, as the Lessor shall elect, or contest such claim in the Tax Court of the United States, considering, however, in good faith such request as the Lessee shall make concerning the most appropriate forum in which to proceed; (iv) the Lessor shall have sole control of the conduct of the contest, considering however such suggestions as to the conduct of the contest as the Lessee may make; and (v) the Lessee shall have indemnified the Lessor in a manner satisfactory to it for any liability or loss which the Lessor may incur as the result of contesting such claim and shall have agreed to pay the Lessor on demand all costs and expenses which the Lessor may incur in connection with contesting such claim, including, without limitation (A) reasonable attorneys' and accountants' fees and disbursements, (B) the amount of any interest or penalty which may ultimately be payable to the United States Government as the result of contesting such claim, and (C) in the event the Lessor shall pay the tax claimed and then seek a refund, interest on the amount of the tax paid attributable to such claim, computed from the date of payment of such tax to the date such refund is received, or, if the final determination of such claim shall be adverse to the Lessor, to the date the Lessee shall make payment to the Lessor in respect of such tax in accordance with the terms of this § 17 at a rate per annum equal at all times to 1% over the rate (herein called the "Prime Rate") which The Chase Manhattan Bank (N.A.) charges from time to time at its principal office in New York City on short-term loans to large businesses with the highest credit standing, each change in such interest rate resulting from a change in the Prime Rate to become effective upon such change in the Prime Rate, provided that the amount of such interest payable by the Lessee shall be reduced by the amount of interest received by the Lessor from the Internal Revenue Service attributable to a refund with respect to such claim successfully challenged. If any such claim referred to above shall be made by the Internal Revenue Service and the Lessee shall have requested the Lessor to contest such claim as above provided and shall have duly complied with all of the terms of this § 17, the Lessee's liability under this § 17, with respect to such claim shall become fixed upon final determination (including the expiration of the time for all appeals) of the Lessor's liability for the tax

claimed and after giving effect to any refund or abatement obtained with respect to the claim or claims contested pursuant to this paragraph, together with interest thereon; but in all other cases the liability of the Lessee under this § 17 shall become fixed at the time the Lessor makes payment of the tax attributable to the Loss. In the case of any such claim by the Internal Revenue Service referred to above, the Lessor agrees promptly to notify the Lessee in writing of such claim and agrees not to make payment of the tax claimed for at least 30 days after the giving of such notice and agrees to give to the Lessee any relevant information relating to such claim which may be particularly within the knowledge of the Lessor, and shall otherwise cooperate with the Lessee in good faith in order to contest effectively any such claim.

In the event the rentals for the Units shall be adjusted as provided in the fifth paragraph of this § 17, the Casualty Values set forth in § 7 hereof shall be adjusted accordingly; provided, however, that no Casualty Value hereunder so adjusted of any Unit shall be less than the Casualty Value (as defined in the Security Document) of such Unit.

The Lessor and the Lessee will jointly apply for and diligently seek the Rulings (as defined below); provided, however, that nothing herein shall preclude the Lessor or the Lessee, as either may deem advisable, from applying for and seeking any other rulings of the Internal Revenue Service not inconsistent with the Rulings. The Lessee will furnish such documents, records and representations, including, but not limited to, evidence of the original use, the estimated useful life and the estimated residual value of the Units, sufficient to support the matters claimed in any request for such Rulings as shall be deemed necessary and appropriate for such request by the Lessor. The Lessee agrees that during the Original Term of this Lease none of the Units will be used predominantly outside the United States within the meaning of Section 48(a) of the Code, that it will maintain sufficient records to verify such use and that it will furnish such records to the Lessor within 30 days after receipt of a written request therefor.

Anything in this § 17 to the contrary notwithstanding, if on or before September 1, 1975, the Internal Revenue Service for any reason whatsoever shall not have issued to the Lessor in respect of the Rulings requested a ruling or rulings satisfactory to the Lessor and the Lessee to the

effect that: (i) this Lease is a true lease and the Lessor will be treated as the owner of the Units; (ii) the Lessor is entitled to deductions for depreciation in respect of the Units delivered hereunder (but not necessarily the ADR Deductions); and (iii) the Lessor is entitled to the Interest Deductions, then the Lessee shall, in respect of all Units delivered hereunder and settled for under the Security Document (excluding any Units for which payment in respect of a Casualty Occurrence shall have been made), on the next succeeding rental payment date following September 1, 1975, but only if, at least 30 days prior to such rental payment date, written notice shall have been given by either the Lessor or the Lessee to the other party that the provisions of this paragraph shall become applicable) purchase the interest of the Lessor in such Units and in payment therefor assume and agree to discharge the Lessor's obligations relating to such Units under the Security Document (without regard to the limitations set forth in the last paragraph of Article 4 and Article 23 of the Security Document) and shall pay to the Lessor an amount equal to the rental payable on such rental payment date plus the aggregate Casualty Value of such Units, less the unpaid Conditional Sale Indebtedness (as defined in the Security Document) in respect thereof, determined as of such date plus all fees or expenses paid or incurred by the Lessor in respect of this transaction.

The Lessor and the Lessee agree that if either the Lessor or the Lessee, on or after September 1, 1975, and prior to September 8, 1975, gives the other party the written notice required by the immediately preceding paragraph that the provisions of such paragraph shall become applicable, the Lessor will, on or prior to September 15, 1975, in accordance with Section 48(d) of the Code and the regulations thereunder, execute without warranty of efficacy and file with the Lessee an election to treat the Lessee as having acquired the Units for purposes of the investment tax credit provided by Section 38 and related sections of the Code so that the Lessee may receive the benefit of such credit to the extent it is available; provided, however, that the Lessor shall not be in any way responsible for the Lessee's failure to obtain the benefits of such investment tax credit and the Lessee shall be solely responsible for the preparation and filing of all documents necessary to effect such election and shall furnish the Lessor with all documents required to be signed and filed by the Lessor in respect of the proper making of such election on or before September 8, 1975, and shall specify in its letter transmitting the election documents to the Lessor the date on which such election is required to be made.

For purposes of this § 17, the term Rulings shall mean rulings by the Internal Revenue Service to the effect that, for Federal income tax purposes:

(i) The Lessor will be treated as the purchaser, owner, lessor and original user of the Units.

(ii) the Lease is a true lease under which the Lessor will be treated as the lessor and the Lessee will be treated as the lessee.

(iii) For purposes of determining the investment credits and depreciation allowable with respect to the Units, the basis of each Unit in the hands of the Lessor is not less than the "Purchase Price" for such Unit as defined in the Conditional Sale Agreement (including the portion attributable to the investment made by the Original Investor as such term is defined in the Finance Agreement dated the date hereof), plus all other items includible in basis under section 1012 of the Code.

(iv) Each Unit constitutes "new section 38 property" within the meaning of section 48(b) of the Code.

(v) The Lessor will be entitled to the investment credit under section 38 of the Code attributable to the Units, and its qualified investment in such Units will be determined pursuant to section 46(c) of the Code.

(vi) The Lessor will be entitled to deductions for depreciation of the Units, and the Lessor will be entitled to elect to use any method of accelerated depreciation permitted by Section 167(b)(2) or (3) of the Code and to determine the "reasonable allowance" for depreciation of the Units pursuant to Section 167(m) of the Code and Section 1.167(a)-11 of the Income Tax Regulations, and such entitlement will not be affected by the fact that the Units may constitute public utility property within the meaning of Section 167(1)(3) of the Code in the hands of the Lessor.

(vii) The Units fall within Asset Guideline Class No. 00.25 of Revenue Procedure 72-10, 1972-1 C.B. 721, and may be assigned an asset depreciation period (useful life) of 12 years in accordance with Section 167(m) of the Code and Section 1.167(a)-11 of the Income Tax Regulations.

(viii) The useful life of the Units for purposes of section 46(c) of the Code will be the same as the asset depreciation period selected in computing the allowance for depreciation under Section 167(m) of the Code.

(ix) The Lessor will be entitled to elect pursuant to Section 167(f) of the Code to reduce the salvage value of the Units' basis for determining depreciation.

(x) The Lessor may, at any time during the asset depreciation period for the Units and without the consent of the Commissioner of Internal Revenue, change from the double-declining balance method of depreciation to the sum-of-the-years-digit method or from the sum-of-the-years-digit method to the straight-line method in accordance with Section 1.167(a)-11(c)(1)(iii) of the Income Tax Regulations.

(xi) The Lessor will be entitled to deduct the interest paid or accrued under the terms of the Conditional Sale Agreement pursuant to Section 163 of the Code.

(xii) The Lessee, as lessee under the Lease, will be entitled to deduct rentals payable under the Lease pursuant to Section 162(a)(3) of the Code in accordance with its method of accounting.

The obligations of the Lessee under this § 17 shall survive the expiration or earlier termination of this Lease and are expressly made for the benefit of and shall be enforceable by the Lessor and its successors and assigns.

§ 18. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 12-1/8% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable (and, for purposes of this § 18, any sums paid to and held by or for the benefit of the Vendor which would be paid to the Lessor by the Agent under the Security Document but for the occurrence and continuance of any Event of Default or other event which with notice or lapse of time or both could become an Event of Default shall be deemed overdue).

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

(a) if to the Lessor, at One Chase Manhattan Plaza, New York, New York 10015, attention of Administrative Assistant, with a copy to the Vendor at the address specified in Article 27 of the Security Document, and

(b) if to Lessee, at 1900 Pennsylvania Avenue, N.W., Washington, D. C. 20006, Attention of Treasurer,

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

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

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

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

§ 22. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the

parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

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

POTOMAC ELECTRIC POWER COMPANY,

by

Senior Vice President

[CORPORATE SEAL]

Attest:

Assistant Secretary

CHASE MANHATTAN SERVICE CORPORATION,

by

[CORPORATE SEAL]

Attest:

DISTRICT OF COLUMBIA.) ss.:

On this day of November 1974, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Senior Vice President of POTOMAC ELECTRIC POWER 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

[Notarial Seal]

My Commission expires

SCHEDULE A

to Lease

<u>Type</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>
100 Ton Steel High Side Gondolas	80	PEPX 1-80
100 Ton Steel 3 Gate Hopper Cars	80	PEPX 601-680

ANNEX D
TO
CONDITIONAL SALE AGREEMENT

ASSIGNMENT OF LEASE AND AGREEMENT dated as of October 15, 1974 (hereinafter called this Assignment), by and between CHASE MANHATTAN SERVICE CORPORATION (hereinafter called the Lessor or the Vendee) and AMERICAN SECURITY & TRUST COMPANY, as Agent under a Finance Agreement dated the date hereof (hereinafter called the Vendor).

WHEREAS, the Vendee and POTOMAC ELECTRIC POWER COMPANY (hereinafter called the Lessee) are entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Document), with THRALL CAR MANUFACTURING COMPANY and BETHLEHEM STEEL CORPORATION (hereinafter called the Builders) providing for the sale to the Vendee of such units of railroad equipment (hereinafter called the Units) described in the Annex thereto as are delivered to and accepted by the Vendee thereunder; and

WHEREAS the Lessor and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units; and

WHEREAS, in order to provide security for the obligations of the Lessor under the Security Document and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as that term is defined in the Security Document), the Lessor has agreed to assign for security purposes its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 11 hereof, the Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as Vendee and of the Lessee under the Security Document, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to

the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease (except as specifically provided in § 7 thereof with respect to public liability insurance proceeds), and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the due and unpaid obligations of the Lessor under the Security Document, subject to the limitations contained in the last paragraph of Article 4 of the Security Document and any balance shall be paid in immediately available funds immediately to and retained by the Lessor. If the Vendor shall not receive any rental payment under the first paragraph of § 3 of the Lease when due, the Vendor shall notify the Lessor at the address set forth in the Lease.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. To protect the security afforded by this Assignment, the Lessor agrees as follows:

(a) The Lessor will faithfully abide by, perform and discharge each and every obligation,

covenant and agreement which the Lease provides are to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease, except as provided in Section 7 and Section 17 thereof, or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void; provided, however, that the Lessor may agree (i) to amend the Lease to change the semiannual rental payment on each Unit to not less than the principal and interest due on such date under the Security Document with respect to such Unit, (ii) to amend §§ 4 (to extend the term of the Lease), 6, 13, 14 or 17 of the Lease so long as any amendment thereof is limited to the subject matter set forth in such sections and does not adversely affect the interests of the Vendor and (iii) to amend the Lease in the manner and to the extent contemplated by § 17 thereof. The Lessor shall promptly notify the Vendor in writing of any such amendment.

(b) Should the Lessor fail to make any payment or to do any act which this Assignment requires the Lessor to make or do, then the Vendor, but without obligation so to do, after first making written demand upon the Lessor and affording the Lessor a reasonable period of time within which to make such payment or do such act, but without releasing the Lessor from any obligation hereunder, may make or do the same in such manner and to such extent as the Vendor may deem necessary to protect the security hereof, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Vendor, and also the right to perform and discharge each and every obligation, covenant and agreement of

the Lessor contained in the Lease; and in exercising any such powers, the Vendor may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Lessor will reimburse the Vendor for such costs, expenses and fees. The obligations and liabilities of the Lessor hereunder shall be construed in accordance with and subject to the limitations in the last paragraph of Article 4, and Article 23, of the Security Document.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Lessee's and the Lessor's obligations under the Security Document, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. On the first Closing Date (as defined in the Security Document) the Lessor will furnish the Vendor with an opinion of counsel that this Assignment has been duly authorized, executed and delivered by the Lessor and is a legal and valid agreement binding on the Lessor.

7. At the request of the Vendor, the Lessor will, at the expense of the Lessee, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and

all further instruments required by law or reasonably requested by the Vendor in order to confirm or further assure, the interests of the Vendor hereunder.

8. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

9. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

10. The Lessor shall cause all payments received by it under the Lease, except those received from the Vendor, to be promptly paid to the Vendor at its address set forth in Article 22 of the Security Document, or at such other address as the Vendor shall designate.

11. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as an event of default under the Security Document or the Lease has not occurred and is not then continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to apply the Payments as provided in Paragraph 1 hereof. Until such an event of default shall have occurred and except as aforesaid, the Lessor shall be entitled to exercise its rights under the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respec-

tive corporate seals to be affixed and duly attested, all as of the date first above written.

CHASE MANHATTAN SERVICE CORPORATION.

by

Vice President

[CORPORATE SEAL]

Attest:

AMERICAN SECURITY & TRUST COMPANY,
as Agent.

by

Vice President

[CORPORATE SEAL]

Attest:

Assistant Secretary

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

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

Notary Public

[NOTARIAL SEAL]

My Commission expires

DISTRICT OF COLUMBIA,) ss.:

On this day of November 1974, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is Vice President of AMERICAN SECURITY & TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said bank and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

Notary Public

[NOTARIAL SEAL]

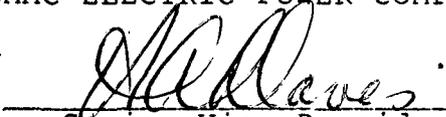
My Commission expires

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Assignment of Lease and Agreement is hereby acknowledged as of October 15, 1974. The undersigned acknowledges its obligation, pursuant to § 12 of the Lease, to pay to the Vendor all rentals payable under the Lease, so long as the foregoing Assignment of Lease and Agreement shall remain in effect, and also agrees to pay the expenses as provided in paragraph 7 hereof.

POTOMAC ELECTRIC POWER COMPANY,

by


Senior Vice President

AGREEMENT AND ASSIGNMENT dated as of October 15, 1974, among the corporations first named following the testimonium below (each such corporation being hereinafter called the Builder and together called the Builders) and AMERICAN SECURITY & TRUST COMPANY acting as Agent under a Finance Agreement dated the date hereof (hereinafter called the Finance Agreement) (said Agent, so acting being hereinafter called the Assignee).

WHEREAS the Builders, CHASE MANHATTAN SERVICE CORPORATION (hereinafter called the Vendee) and POTOMAC ELECTRIC POWER COMPANY (hereinafter called the Lessee) have entered into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Builders, severally, and the purchase by the Vendee of the railroad equipment described in Annex B to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment and the Equipment constructed, sold and delivered by each Builder being hereinafter sometimes called "such Builder's Equipment" or "its Equipment"); and

WHEREAS the Vendee and the Lessee have entered into a Lease of Railroad Equipment date as of the date hereof (hereinafter called the Lease), providing for the lease to the Lessee of the Equipment;

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to each Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. Each Builder hereby assigns, transfers and sets] over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of such Builder in and to each unit of such Builder's Equipment when and as severally delivered to and accepted by the Vendee, subject to payment by the Assignee to such Builder of the amount required to be paid pursuant

to Section 4 hereof and subject to payment by the Vendee pursuant to subparagraph (a) of the third paragraph of Article 4 of the Conditional Sale Agreement;

(b) all the right, title and interest of such Builder in and to the Conditional Sale Agreement (except the right to construct and deliver such Builder's Equipment and the right to receive the payments specified in the third paragraph of Article 3 thereof, in the first paragraph and in subparagraph (a) of the third paragraph of Article 4 thereof, in the last paragraph of Article 15 thereof and reimbursement for taxes paid or incurred by such Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to such Builder 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 Lessee under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this paragraph, all such Builder's rights, titles, powers, privileges and remedies under the Conditional Sale Agreement,

without any recourse hereunder, however, against such Builder for or on account of the failure of the Vendee or the Lessee 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 such Builder to deliver such Builder's Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements referred to in Article 14 of the Conditional Sale Agreement or relieve the Vendee or the Lessee from their respective obligations to such Builder contained in Articles 2, 3, 4, 6, 8 and 14 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of each Builder to the Vendee with respect to such Builder's Equipment shall be and remain enforceable by the Vendee, its successors and assigns, against and only against such Builder. In furtherance of the foregoing assignment and

transfer, each Builder 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 such Builder, 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 Lessee 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. Each Builder agrees that it shall construct its Equipment in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Vendee in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by such Builder. Each Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of its Equipment under the Conditional Sale Agreement it has legal title to such unit and good and lawful right to sell such unit and that title to such unit was free of all claims, liens, security interests and other encumbrances of any nature other than those created by the Conditional Sale Agreement and the rights of the Lessee under the Lease (as defined in the Conditional Sale Agreement); and each Builder further agrees that it will defend the title to each unit of its Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by such Builder under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Vendee and the Lessee thereunder. No Builder will deliver any of its Equipment to the Vendee under the Conditional Sale Agreement until the Conditional Sale Agreement and the Lease have been filed and recorded in accordance with Section 20c of the Interstate Commerce Act (the respective Builder and their counsel being entitled to rely on advice from special counsel for the Assignee or from the Lessee that such filing and recordation have occurred).

SECTION 3. Each Builder 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 Pur-

chase Price of its Equipment or to enforce any provision of the Conditional Sale Agreement, such Builder will indemnify, protect and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Vendee or the Lessee arising out of a breach by such Builder of any obligation with respect to such Builder's Equipment or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Lessee by such Builder. Each Builder'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 Article 15 of the Conditional Sale Agreement, to strike any defense, setoff, counterclaim or recoupment asserted by the Vendee or the Lessee 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, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to such Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving such Builder the right, at such Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by the Lessee or Vendee and not manufactured by such Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee or Vendee and not developed or purported to be developed by such Builder, such Builder agrees, except as otherwise specifically provided in Annex A to the Conditional Sale Agreement, to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of its Equipment 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 prompt notice to the appropriate Builder of any such liability or claim actually known to the Assignee and will give such Builder the right, at such Builder's expense, to compromise, settle or defend against such claim. Each Builder agrees that any amounts payable

to it by the Vendee or the Lessee with respect to its Equipment (with the exception of amounts payable pursuant to subparagraph (a) of the third paragraph of Article 4 of the Conditional Sale Agreement), whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

The Vendee and the Lessee are hereby declared to be third-party beneficiaries of obligations of the Builders set forth in this Section 3, and the parties hereto agree that the Vendee and the Lessee are entitled to enforce specific performance thereof or to recover damages for the breach thereof in an amount not in excess of the sums herein undertaken to be paid. This Assignment will not be amended to change the obligations of the Builders in this Section 3 without the consent of the Vendee and the Lessee.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the Conditional Sale Agreement with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the Builder whose Equipment shall be included in such Group, at such place in New York, New York, or Chicago, Illinois, as such Builder reasonably may designate, in immediately available funds, an amount equal to the portion of the Purchase Price of such Builder's Equipment which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee (with an executed counterpart to the Vendee), as provided in Article 15 of the Conditional Sale Agreement and at least five business days prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel hereinafter mentioned, in such number of counterparts as may be reasonably requested by said special counsel:

(a) a bill of sale from such Builder to the Assignee transferring to the Assignee security title to the units of such Builder's Equipment in such Group, warranting to the Assignee and to the Vendee that, at the time of delivery of such units under the Conditional Sale Agreement, such Builder had legal title to such units and good and lawful right to sell such units and that title to such units was free of all claims, liens, security interests and other encumbrances of any nature other than those created by the Conditional Sale Agreement and the rights of the Lessee under the Lease, and cove-

nanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by such Builder under the Conditional Sale Agreement;

(b) a Certificate or Certificates of Acceptance with respect to the units of such Builder's Equipment in such Group as contemplated by Article 3 of the Conditional Sale Agreement and § 2 of the Lease;

(c) a certificate of an officer of the Lessee to the effect that none of the units of the Equipment was placed in the service of the Lessee or otherwise was used by the Lessee prior to delivery and acceptance of such units under the Conditional Sale Agreement and the Lease;

(d) an invoice of such Builder for the units of such Builder's Equipment in such Group accompanied by or having endorsed thereon a certification by the Vendee and the Lessee as to their approval thereof;

(e) an opinion of Messrs. Cravath, Swaine & Moore, who are acting as special counsel for the Assignee and the Investors (as defined in the Finance Agreement), to the effect that (i) the Finance Agreement, assuming due authorization, execution and delivery by the Original Investor, has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) the Conditional Sale Agreement and the Lease have been duly authorized, executed and delivered by the respective parties thereto and each is a legal, valid and binding instrument enforceable in accordance with its terms, (iii) this Assignment and the Lease Assignment have been duly authorized, executed and delivered by the respective parties thereto and each is a legal, valid and binding instrument, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges of such Builder purported to be assigned to it by this Assignment, (v) security title to the units of the Equipment is validly vested in the Assignee and such units, at the time of delivery thereof to the Vendee under the Conditional Sale Agreement, were free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement and the rights of the Lessee under the Lease), (vi) approvals have been obtained from the Virginia State Corporation

Commission and the District of Columbia Public Service Commission and no other approval of any governmental authority is necessary for the valid execution and delivery of the Conditional Sale Agreement or this Assignment, or if any such authority is necessary, it has been obtained, (vii) the Conditional Sale Agreement, this Assignment, the Lease and the Lease Assignment 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 any state of the United States of America or in the District of Columbia, and (viii) registration of the Conditional Sale Agreement or this Assignment is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended; and such opinion shall also cover such other matters as may reasonably be requested by the Assignee;

(f) an opinion of Messrs. Milbank, Tweed, Hadley & McCloy, special counsel for the Vendee, dated as of such Closing Date and addressed to the Assignee and the Lessee, stating that the Conditional Sale Agreement, the Lease and the assignment thereof to the Assignee have been duly authorized, executed and delivered by the Vendee and, assuming due authorization, execution and delivery by the other parties thereto, are legal and valid instruments, binding upon the Vendee and enforceable against the Vendee in accordance with their terms;

(g) opinions of counsel for the Lessee, dated as of such Closing Date and addressed to the Vendee and the Assignee, to the effect set forth in § 15 of the Lease;

(h) an opinion of counsel for such Builder, dated as of such Closing Date and addressed to the Assignee, Vendee and Lessee, to the effect set forth in clauses (iv) and (v) of subparagraph (e) above in respect of its Equipment and stating that (i) the Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by such Builder, and assuming due authorization, execution and delivery by the other parties thereto, is

a legal and valid instrument binding upon such Builder and enforceable against such Builder in accordance with its terms, and (iii) this Assignment has been duly authorized, executed and delivered by such Builder, and assuming due authorization, execution and delivery by the other parties thereto, is a legal and valid instrument binding upon such Builder; and

(i) a receipt from such Builder for any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to the Builder with respect to the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Vendee.

In giving the opinions specified in subparagraphs (e), (f), (g) and (h) of this Section 4, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally, by applicable laws which may affect the remedies provided therein (which laws, however, do not in the opinion of such counsel make the remedies provided in such document inadequate for the realization of the benefits provided thereby), and by principles of equity applicable to the enforceability of the remedy of specific performance. In giving the opinion specified in said subparagraphs (e) and (f) counsel may rely (i) as to authorization, execution and delivery by such Builder of the documents executed by such Builder and title to such Builder's Equipment at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for each Builder and (ii) as to any matter governed by the law of any jurisdiction other than New York or the United States, on the opinion of counsel for such Builder or the Lessee as to such matter.

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Assignee having on deposit, pursuant to the terms of the Finance Agreement, sufficient funds to make such payment and payment by the Vendee of the amount required to be paid by it pursuant to subparagraph (a) of the third paragraph of Article 4 of the Conditional Sale Agreement. The Assignee shall not be obligated to make any

of the above-mentioned payments at any time after the commencement of any proceedings specified in clause (c) of Article 16 of the Conditional Sale Agreement or if any event of default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement would constitute an event of default, shall have occurred and be continuing under the Conditional Sale Agreement. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to such Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of such Builder's Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. The Assignee may assign all or any 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 or the Lessee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 15 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that assuming due authorization, execution and delivery by the other parties thereto, the Conditional Sale Agreement is, in so far as such Builder is concerned, a legal, valid and existing agreement binding upon it in accordance with its terms and that it is now in force without amendment thereto;

(b) 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, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, upon request of the Assignee, its successors and assigns, it will execute any and 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 such Builder therein or in such Builder's Equipment.

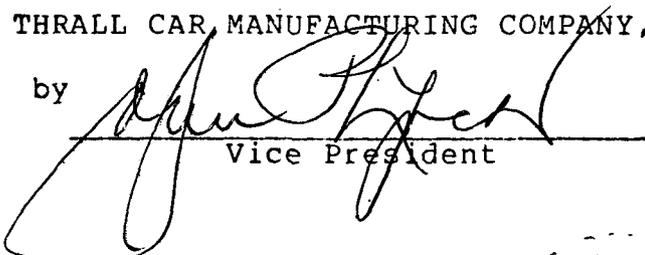
SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York, provided, however, that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act, such additional rights arising out 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, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of the Equipment.

SECTION 8. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart. Although for convenience this Assignment is dated 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 acknowledgements hereto annexed.

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

THRALL CAR MANUFACTURING COMPANY,

by


Vice President

[Corporate Seal]

Attest:


Assistant Secretary





[Corporate Seal]

BETHLEHEM STEEL CORPORATION,

by Francis W. Lane
Vice President

Attest:

G. L. Frankfield
Assistant Secretary

AMERICAN SECURITY & TRUST COMPANY,
as Agent,

by John R. Whelan
Vice President

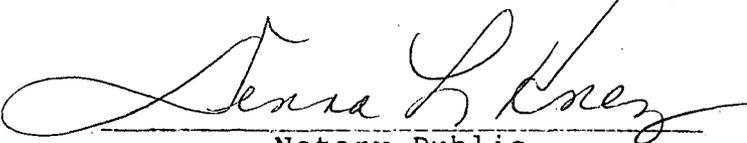
[Corporate Seal]

Attest:

Debra K. Ricci
Assistant Secretary

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

On this ^{7TH} day of November 1974, before me personally appeared JOHN P. LYNCH, to me personally known, who, being be me duly sworn, says that he is a Vice President of THRALL CAR 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.


Notary Public

[Notarial Seal]

My Commission expires **MY COMMISSION EXPIRES JANUARY 7, 1977**



DISTRICT OF COLUMBIA,) ss.:

On this *8th* day of November 1974, before me personally appeared *JOHN R. WHITMORE*, to me personally known, who, being by me duly sworn, says that he is a Vice President of AMERICAN SECURITY & TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said company, that said instrument was signed and sealed on behalf of said company 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 company.

Gregory M. Pheasant
Notary Public

[Notarial Seal]

My Commission expires *6-30-76*.



ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of October 15, 1974.

CHASE MANHATTAN SERVICE CORPORATION,

by *Juon P. Sennay*
Vice President

POTOMAC ELECTRIC POWER COMPANY,

by *M. Davis*
Senior Vice President