

7164-C

RECORDATION NO. _____ FILED & RECORDED

NOV 29 1973 -11 30 AM

INTERSTATE COMMERCE COMMISSION

COLLATERAL ASSIGNMENT OF LEASE AND AGREEMENT
dated as of September 1, 1973 (hereinafter called "this Assignment"), by and between NEW ENGLAND MERCHANTS NATIONAL BANK (hereinafter called the Company), acting as trustee under a Trust Agreement dated as of September 1, 1973 (hereinafter call the Trust Agreement), with SECURITY PACIFIC LEASING CORPORATION (hereinafter called the Beneficiary), and THE CONNECTICUT BANK AND TRUST COMPANY, acting as Agent (hereinafter called the Agent) pursuant to a Finance Agreement dated as of September 1, 1973 (hereinafter called the Finance Agreement), among the Agent and the Investors referred to therein (hereinafter called the Investors).

WHEREAS the Company has entered into a Conditional Sale Agreement dated as of September 1, 1973 (hereinafter called the Conditional Sale Agreement), with ORTNER FREIGHT CAR COMPANY (hereinafter called the Builder), providing for the sale to the Company of such units of railroad equipment (hereinafter called the Units) described in Annex B to the Conditional Sale Agreement as are delivered to and accepted by the Company thereunder; and

WHEREAS the Builder has assigned its interests in the Conditional Sale Agreement to the Agent, acting under the Finance Agreement, pursuant to an Agreement and Assignment dated as of September 1, 1973; and

WHEREAS the Company and GRAND TRUNK WESTERN RAILROAD COMPANY (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of September 1, 1973 (hereinafter called the Lease), providing for the leasing by the Company to the Lessee of the Units; and

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

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 13 hereof, the Company hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment and performance of the Company's obligations under the Conditional Sale Agreement, all the Company's right, title and interest as Lessor under the Lease, together with all rights, powers, privileges, and other benefits of the Company as Lessor 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 Company from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, payments with respect to the guarantee of the Conditional Sale Agreement by the Lessee provided for in § 17 of the Lease 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 Company, as Lessor, is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Company hereby irrevocably authorizes and empowers the Agent in its own name, or the name of its nominee, or in the name of the Company or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Company is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Agent agrees to accept any Payments made by the Lessee for the account of the Company pursuant to the Lease. To the extent received, the Agent will apply such Payments to satisfy the obligations of the Company under the Conditional Sale Agreement. So long as no event of default (or event which, with notice or lapse of time, or both, could constitute an event of default) under the Conditional Sale Agreement shall have occurred and be continuing, any balance shall be paid to the Company or to the order of the Company at such address as the Company shall furnish the Agent in writing. The Agent will promptly notify the Company and the Beneficiary of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time would constitute, an event of default under the Conditional Sale Agreement.

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

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

(a) The Company will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Company; without the written consent of the Agent, the Company will not anticipate the rents under the Lease 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 Company agrees that any amendment, modification or termination thereof without such consent shall be void; the Company will hold all Payments received by the Company which are assigned and set over to the Agent by this Assignment in trust for the Agent and will turn them over to the Agent forthwith in the same form in which they are received for application in accordance with the terms and conditions hereof.

(b) At the Company's sole cost and expense, the Company will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of the Company under the Lease.

(c) Should the Company fail to make any payment or to do any act which this Assignment requires the Company to make or do, then the Agent, but without obligation so to do, after first making written demand upon the Company and affording the Company a reasonable period of time within which to make such payment or do such act, but

without releasing the Company from any obligation hereunder, may make or do the same in such manner and to such extent as the Agent may deem necessary to protect the security 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 Agent, and also the right to perform and discharge each and every obligation, covenant and agreement of the Company contained in the Lease; and in exercising any such powers, the Agent may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees.

4. The Company does hereby constitute the Agent the Company's true and lawful attorney, irrevocably, with full power (in the name of the Company, 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 Company 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 Agent may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Company's obligation under the Conditional Sale Agreement, this Assignment and all rights and powers herein assigned and granted to the Agent shall terminate, and all estate, right, title and interest of the Agent in and to the Lease shall revert to the Company.

6. The Company represents and warrants that (a) the execution and delivery by the Company of the Lease, this Assignment, the Conditional Sale Agreement and the Trust Agreement have each been duly authorized, and the Lease, this Assignment and the Conditional Sale Agreement are and will remain the valid and binding obligations of the Company in accordance with their terms; (b) the Company has not executed any other assignment of the Lease and the Agent's right to receive all payments under the Lease is and will continue to be free and clear of any and all liens, agreements, security interests or other encumbrances, created by the Company (c) notwithstanding this Assignment, the Company will conform and comply with each and all of the covenants and conditions in the Lease and the

Conditional Sale Agreement set forth to be complied with by it, (d) to the knowledge of the Company, it has performed all obligations on its part to be performed under the Lease and the Conditional Sale Agreement as of the date hereof and (e) the Lease and the Conditional Sale Agreement and have not been canceled by the Company and to the knowledge of the Company are in full force and effect and to the knowledge of the Company there has not occurred on or prior to the date hereof any event of default under the Conditional Sale Agreement or any event which with notice and/or lapse of time would constitute such an event of default.

If an event of default under the Conditional Sale Agreement shall occur and be continuing, the Agent may declare all sums secured hereby immediately due and payable and may at its option without notice and without regard to the adequacy of the security of the sums hereby secured, either in person or by an agent with or without bringing any action or proceeding or by a receiver to be appointed by a court, take possession of and operate the Units or any part thereof in accordance with the terms of the Conditional Sale Agreement and do any acts which the Agent deems proper to protect the security hereof, either with or without taking possession of the Units. The taking possession of the Units and the taking of any action permitted as aforesaid shall not cure or waive any default or waive, modify or affect any default hereunder or under the Lease or invalidate any act done hereunder.

7. The Company covenants and agrees with the Agent that in any suit, proceeding or action brought by the Agent, as assignee of the Company's right, title and interest under the Lease for any instalment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, the Company will save, indemnify and keep the Agent harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Lessee or its successors, arising out of a breach by the Company of any obligation under the Lease or arising out of any other indebtedness or liability at any time owing to the Lessee or its successors from the Company. Any and all such obligations of the Company shall be and remain enforceable against and only against the Company and shall not be enforceable against the Agent or any party or parties in whom any of the rights of the Company under the Lease shall vest by reason of successive assignments or transfers.

8. The Company will, 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 reasonably requested by the Agent in order to confirm or further assure, to the satisfaction of the Agent and its counsel, this Assignment and the provisions hereof under Section 20c of the Interstate Commerce Act, as such Section has been or shall be amended.

9. The Agent 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 Agent hereunder.

10. This Assignment shall be governed by the laws of the Commonwealth of Massachusetts, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

11. The Company shall cause copies of all notices received in connection with the Lease to be promptly delivered to the Agent. Any notice required or permitted to be given by either party hereto to the other party shall be given (i) if to the Company, in accordance with §20 of the Lease and (ii) if to the Agent, in accordance with Article 22 of the Conditional Sale Agreement, at its office at One Constitution Plaza, Hartford, Connecticut 06115, *Attention of Corporate Trust Department*.

12. The Company will promptly cause this Assignment to be filed and recorded in accordance with § 18 of the Lease.

13. Anything herein or in the Lease or in the Conditional Sale Agreement (or either of them) contained to the contrary notwithstanding:

(a) The Company may, but shall be under no obligation to, cure any Event of Default (as Event of Default is defined in § 9 of the Lease) suffered or permitted to occur by the Lessee under the Lease by making any payment (whether of rent, casualty payment, indemnity payment or other payment) or by performing any act which the Lease requires the Lessee to make or perform. Upon the making of any such payment or the performance of any such act by the Company, the Event of Default under the Lease or any event of default under the Conditional Sale Agreement (or either of them) which occurred in consequence of the Lessee's having failed

to make such payment or to perform such act, shall for all purposes of both the Lease and the Conditional Sale Agreement be deemed, as between the Company and the Agent, to have been cured to the same extent as if the Lessee had made such payment or performed such act. The curing of any Event of Default by the Company shall not be deemed to impose any obligation or liability upon the Company to cure any subsequent Event of Default suffered or permitted to occur by the Lessee.

(b) The Agent for itself and its successors and assigns, hereby agrees with the Company and its successors and assigns, that, except for the direct collection by the Agent of all rentals, profits and other sums payable by the Lessee to the Company pursuant to the Lease, the Agent will not, so long as no Event of Default under the Lease or event of default under the Conditional Sale Agreement (or either of them) has occurred and is 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 Company to the Agent by this Assignment.

(c) Each and all of the representations, undertakings and agreements herein made on the part of the Company, while in form purporting to be the representations, undertakings and agreements of the Company are nevertheless each and every one of them, made and intended not as personal representations, undertakings and agreements by the Company or for the purpose or with the intention of binding the Company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Assignment is executed and delivered by the Company not in its own right but solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement. The obligations and liabilities of the Company hereunder shall be construed and limited in accordance with the third and fourth paragraphs of Article 23 of the Conditional Sale Agreement and §22 of 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 respective corporate seals to be affixed and duly attested, all as of the date first above written.

NEW ENGLAND MERCHANTS NATIONAL BANK,
as trustee

[CORPORATE SEAL]

By 
Vice President

Attest: 
Assistant Corporate Trust Officer

THE CONNECTICUT BANK AND TRUST
COMPANY,
as agent

[CORPORATE SEAL]

By
Vice President

Attest:
.....
Assistant Secretary

COMMONWEALTH OF MASSACHUSETTS }
COUNTY OF SUFFOLK } ss.:

On this *23RD* day of *NOVEMBER*, 1973 before me personally appeared *P M CLARIC*, to me personally known, who, being by me duly sworn, says that he is a Vice President of NEW ENGLAND MERCHANTS NATIONAL BANK, that the seal affixed to the foregoing instrument is the corporate seal of said association, that said instrument was signed and sealed on behalf of said association 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 association.

Albert R. Gostinich
.....
Notary Public

[NOTARIAL SEAL]
My Commission expires *Nov. 22, 1974*

STATE OF CONNECTICUT }
COUNTY OF HARTFORD } ss.:

On this _____ day of _____, 1973, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CONNECTICUT BANK AND TRUST 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

ANNEX I

LESSEE'S CONSENT AND AGREEMENT

The undersigned, GRAND TRUNK WESTERN RAILROAD COMPANY, a Michigan corporation (hereinafter called the Lessee), the lessee named in the Lease (hereinafter called the Lease) referred to in the foregoing Collateral Assignment of Lease and Agreement dated as of September 1, 1973 (hereinafter called the Assignment), hereby (a) acknowledges receipt of a copy of the Assignment of Lease and Agreement and (b) consents to all the terms and conditions of the Assignment.

As an inducement to the Investors, parties to the Finance Agreement (a copy of which has been delivered to the Lessee) referred to in the Assignment, to invest in the Conditional Sale Indebtedness, as that term is defined in the Conditional Sale Agreement referred to in the Assignment, pursuant to which NEW ENGLAND MERCHANTS NATIONAL BANK, acting as trustee for SECURITY PACIFIC LEASING CORPORATION, (hereinafter called the Lessor) is financing its purchase of the units of railroad equipment (hereinafter called the Units), which Units the Lessor is leasing to the Lessee pursuant to the Lease, and in consideration of other good and valuable consideration, the Lessee agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (which moneys are hereinafter called the Payments) due and to become due under the Lease or otherwise in respect of the Units leased thereunder, directly to the Agent, the assignee named in the Assignment, at One Constitution Plaza, Hartford, Connecticut 06115, (or at such other address as may be furnished in writing to the Lessee by the Agent) and, if the Lessee fails for any reason whatsoever to pay to the Agent any Payments, it will pay to the Agent on the respective dates or times set forth in the Lease, amounts equal to the Payments which it shall not theretofore have paid to the Agent; it being hereby agreed that the obligation of the Lessee to pay all the aforesaid Payments or sums equivalent to the Payments is absolute and unconditional;

(2) the Agent shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the

Lessee under the Lease as though the Agent were named therein as the Lessor;

(3) the Payments or sums equivalent to the payments due hereunder shall not be subject to any right of setoff or counterclaim or other defense which the Lessee might have against the Lessor or otherwise, and the payment thereof to the Agent shall be final and shall not be subject to, and the Lessee hereby agrees to indemnify the Agent against, any liens, charges, security interests or claims of any nature whatsoever resulting from a breach by the Lessee of its obligations under the Lease, prior to or *pari passu* with the right of the Agent to apply such payments or sums equivalent thereto, as provided in the Assignment;

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

(5) the Lease shall not, without the prior written consent of the Agent, be terminated or modified, or any action be taken or omitted by the Lessee, the taking or omission of which might result in an alteration or impairment of the Lease or the Assignment or this Consent and Agreement or of any of the rights created by any thereof.

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

GRAND TRUNK WESTERN RAILROAD
COMPANY,

[CORPORATE SEAL]

By
Vice President

Attest:
.....
Assistant Secretary

The foregoing Consent and Agreement is hereby accepted, as of the first day of September, 1973.

THE CONNECTICUT BANK AND TRUST
COMPANY,

as agent,

By.....
Vice President

STATE OF MICHIGAN }
COUNTY OF WAYNE } ss.:

On this day of , 1973, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

My Commission expires

COLLATERAL ASSIGNMENT OF LEASE AND AGREEMENT

dated as of September 1, 1973 (hereinafter called "this Assignment"), by and between NEW ENGLAND MERCHANTS NATIONAL BANK (hereinafter called the Company), acting as trustee under a Trust Agreement dated as of September 1, 1973 (hereinafter call the Trust Agreement), with SECURITY PACIFIC LEASING CORPORATION (hereinafter called the Beneficiary), and THE CONNECTICUT BANK AND TRUST COMPANY, acting as Agent (hereinafter called the Agent) pursuant to a Finance Agreement dated as of September 1, 1973 (hereinafter called the Finance Agreement), among the Agent and the Investors referred to therein (hereinafter called the Investors).

WHEREAS the Company has entered into a Conditional Sale Agreement dated as of September 1, 1973 (hereinafter called the Conditional Sale Agreement), with ORTNER FREIGHT CAR COMPANY (hereinafter called the Builder), providing for the sale to the Company of such units of railroad equipment (hereinafter called the Units) described in Annex B to the Conditional Sale Agreement as are delivered to and accepted by the Company thereunder; and

WHEREAS the Builder has assigned its interests in the Conditional Sale Agreement to the Agent, acting under the Finance Agreement, pursuant to an Agreement and Assignment dated as of September 1, 1973; and

WHEREAS the Company and GRAND TRUNK WESTERN RAILROAD COMPANY (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of September 1, 1973 (hereinafter called the Lease), providing for the leasing by the Company to the Lessee of the Units; and

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

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 13 hereof, the Company hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment and performance of the Company's obligations under the Conditional Sale Agreement, all the Company's right, title and interest as Lessor under the Lease, together with all rights, powers, privileges, and other benefits of the Company as Lessor 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 Company from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, payments with respect to the guarantee of the Conditional Sale Agreement by the Lessee provided for in § 17 of the Lease 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 Company, as Lessor, is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Company hereby irrevocably authorizes and empowers the Agent in its own name, or the name of its nominee, or in the name of the Company or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Company is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Agent agrees to accept any Payments made by the Lessee for the account of the Company pursuant to the Lease. To the extent received, the Agent will apply such Payments to satisfy the obligations of the Company under the Conditional Sale Agreement. So long as no event of default (or event which, with notice or lapse of time, or both, could constitute an event of default) under the Conditional Sale Agreement shall have occurred and be continuing, any balance shall be paid to the Company or to the order of the Company at such address as the Company shall furnish the Agent in writing. The Agent will promptly notify the Company and the Beneficiary of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time would constitute, an event of default under the Conditional Sale Agreement.

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

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

(a) The Company will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Company; without the written consent of the Agent, the Company will not anticipate the rents under the Lease 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 Company agrees that any amendment, modification or termination thereof without such consent shall be void; the Company will hold all Payments received by the Company which are assigned and set over to the Agent by this Assignment in trust for the Agent and will turn them over to the Agent forthwith in the same form in which they are received for application in accordance with the terms and conditions hereof.

(b) At the Company's sole cost and expense, the Company will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of the Company under the Lease.

(c) Should the Company fail to make any payment or to do any act which this Assignment requires the Company to make or do, then the Agent, but without obligation so to do, after first making written demand upon the Company and affording the Company a reasonable period of time within which to make such payment or do such act, but

without releasing the Company from any obligation hereunder, may make or do the same in such manner and to such extent as the Agent may deem necessary to protect the security 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 Agent, and also the right to perform and discharge each and every obligation, covenant and agreement of the Company contained in the Lease; and in exercising any such powers, the Agent may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees.

4. The Company does hereby constitute the Agent the Company's true and lawful attorney, irrevocably, with full power (in the name of the Company, 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 Company 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 Agent may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Company's obligation under the Conditional Sale Agreement, this Assignment and all rights and powers herein assigned and granted to the Agent shall terminate, and all estate, right, title and interest of the Agent in and to the Lease shall revert to the Company.

6. The Company represents and warrants that (a) the execution and delivery by the Company of the Lease, this Assignment, the Conditional Sale Agreement and the Trust Agreement have each been duly authorized, and the Lease, this Assignment and the Conditional Sale Agreement are and will remain the valid and binding obligations of the Company in accordance with their terms; (b) the Company has not executed any other assignment of the Lease and the Agent's right to receive all payments under the Lease is and will continue to be free and clear of any and all liens, agreements, security interests or other encumbrances, created by the Company (c) notwithstanding this Assignment, the Company will conform and comply with each and all of the covenants and conditions in the Lease and the

Conditional Sale Agreement set forth to be complied with by it, (d) to the knowledge of the Company, it has performed all obligations on its part to be performed under the Lease and the Conditional Sale Agreement as of the date hereof and (e) the Lease and the Conditional Sale Agreement and have not been canceled by the Company and to the knowledge of the Company are in full force and effect and to the knowledge of the Company there has not occurred on or prior to the date hereof any event of default under the Conditional Sale Agreement or any event which with notice and/or lapse of time would constitute such an event of default.

If an event of default under the Conditional Sale Agreement shall occur and be continuing, the Agent may declare all sums secured hereby immediately due and payable and may at its option without notice and without regard to the adequacy of the security of the sums hereby secured, either in person or by an agent with or without bringing any action or proceeding or by a receiver to be appointed by a court, take possession of and operate the Units or any part thereof in accordance with the terms of the Conditional Sale Agreement and do any acts which the Agent deems proper to protect the security hereof, either with or without taking possession of the Units. The taking possession of the Units and the taking of any action permitted as aforesaid shall not cure or waive any default or waive, modify or affect any default hereunder or under the Lease or invalidate any act done hereunder.

7. The Company covenants and agrees with the Agent that in any suit, proceeding or action brought by the Agent, as assignee of the Company's right, title and interest under the Lease for any instalment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, the Company will save, indemnify and keep the Agent harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Lessee or its successors, arising out of a breach by the Company of any obligation under the Lease or arising out of any other indebtedness or liability at any time owing to the Lessee or its successors from the Company. Any and all such obligations of the Company shall be and remain enforceable against and only against the Company and shall not be enforceable against the Agent or any party or parties in whom any of the rights of the Company under the Lease shall vest by reason of successive assignments or transfers.

8. The Company will, 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 reasonably requested by the Agent in order to confirm or further assure, to the satisfaction of the Agent and its counsel, this Assignment and the provisions hereof under Section 20c of the Interstate Commerce Act, as such Section has been or shall be amended.

9. The Agent 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 Agent hereunder.

10. This Assignment shall be governed by the laws of the Commonwealth of Massachusetts, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

11. The Company shall cause copies of all notices received in connection with the Lease to be promptly delivered to the Agent. Any notice required or permitted to be given by either party hereto to the other party shall be given (i) if to the Company, in accordance with §20 of the Lease and (ii) if to the Agent, in accordance with Article 22 of the Conditional Sale Agreement, at its office at One Constitution Plaza, Hartford, Connecticut 06115, *Attention of Corporate Trust Department*.

12. The Company will promptly cause this Assignment to be filed and recorded in accordance with § 18 of the Lease.

13. Anything herein or in the Lease or in the Conditional Sale Agreement (or either of them) contained to the contrary notwithstanding:

(a) The Company may, but shall be under no obligation to, cure any Event of Default (as Event of Default is defined in § 9 of the Lease) suffered or permitted to occur by the Lessee under the Lease by making any payment (whether of rent, casualty payment, indemnity payment or other payment) or by performing any act which the Lease requires the Lessee to make or perform. Upon the making of any such payment or the performance of any such act by the Company, the Event of Default under the Lease or any event of default under the Conditional Sale Agreement (or either of them) which occurred in consequence of the Lessee's having failed

to make such payment or to perform such act, shall for all purposes of both the Lease and the Conditional Sale Agreement be deemed, as between the Company and the Agent, to have been cured to the same extent as if the Lessee had made such payment or performed such act. The curing of any Event of Default by the Company shall not be deemed to impose any obligation or liability upon the Company to cure any subsequent Event of Default suffered or permitted to occur by the Lessee.

(b) The Agent for itself and its successors and assigns, hereby agrees with the Company and its successors and assigns, that, except for the direct collection by the Agent of all rentals, profits and other sums payable by the Lessee to the Company pursuant to the Lease, the Agent will not, so long as no Event of Default under the Lease or event of default under the Conditional Sale Agreement (or either of them) has occurred and is 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 Company to the Agent by this Assignment.

(c) Each and all of the representations, undertakings and agreements herein made on the part of the Company, while in form purporting to be the representations, undertakings and agreements of the Company are nevertheless each and every one of them, made and intended not as personal representations, undertakings and agreements by the Company or for the purpose or with the intention of binding the Company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Assignment is executed and delivered by the Company not in its own right but solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement. The obligations and liabilities of the Company hereunder shall be construed and limited in accordance with the third and fourth paragraphs of Article 23 of the Conditional Sale Agreement and §22 of 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 respective corporate seals to be affixed and duly attested, all as of the date first above written.

NEW ENGLAND MERCHANTS NATIONAL BANK,
as trustee

[CORPORATE SEAL]

By
Vice President

Attest:

.....
Assistant Corporate Trust Officer

THE CONNECTICUT BANK AND TRUST
COMPANY,
as agent

[CORPORATE SEAL]

By
Vice President

Attest:

.....
Assistant Secretary

ANNEX I

LESSEE'S CONSENT AND AGREEMENT

The undersigned, GRAND TRUNK WESTERN RAILROAD COMPANY, a Michigan corporation (hereinafter called the Lessee), the lessee named in the Lease (hereinafter called the Lease) referred to in the foregoing Collateral Assignment of Lease and Agreement dated as of September 1, 1973 (hereinafter called the Assignment), hereby (a) acknowledges receipt of a copy of the Assignment of Lease and Agreement and (b) consents to all the terms and conditions of the Assignment.

As an inducement to the Investors, parties to the Finance Agreement (a copy of which has been delivered to the Lessee) referred to in the Assignment, to invest in the Conditional Sale Indebtedness, as that term is defined in the Conditional Sale Agreement referred to in the Assignment, pursuant to which NEW ENGLAND MERCHANTS NATIONAL BANK, acting as trustee for SECURITY PACIFIC LEASING CORPORATION, (hereinafter called the Lessor) is financing its purchase of the units of railroad equipment (hereinafter called the Units), which Units the Lessor is leasing to the Lessee pursuant to the Lease, and in consideration of other good and valuable consideration, the Lessee agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (which moneys are hereinafter called the Payments) due and to become due under the Lease or otherwise in respect of the Units leased thereunder, directly to the Agent, the assignee named in the Assignment, at One Constitution Plaza, Hartford, Connecticut 06115, (or at such other address as may be furnished in writing to the Lessee by the Agent) and, if the Lessee fails for any reason whatsoever to pay to the Agent any Payments, it will pay to the Agent on the respective dates or times set forth in the Lease, amounts equal to the Payments which it shall not theretofore have paid to the Agent; it being hereby agreed that the obligation of the Lessee to pay all the aforesaid Payments or sums equivalent to the Payments is absolute and unconditional;

(2) the Agent shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the

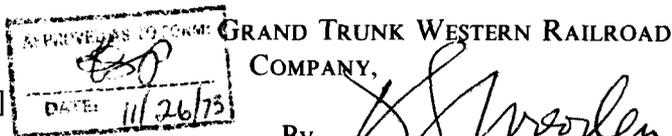
Lessee under the Lease as though the Agent were named therein as the Lessor;

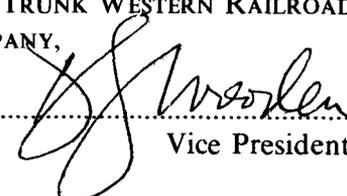
(3) the Payments or sums equivalent to the payments due hereunder shall not be subject to any right of setoff or counterclaim or other defense which the Lessee might have against the Lessor or otherwise, and the payment thereof to the Agent shall be final and shall not be subject to, and the Lessee hereby agrees to indemnify the Agent against, any liens, charges, security interests or claims of any nature whatsoever resulting from a breach by the Lessee of its obligations under the Lease, prior to or *pari passu* with the right of the Agent to apply such payments or sums equivalent thereto, as provided in the Assignment;

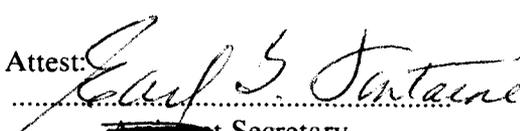
(4) the Agent shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise; and

(5) the Lease shall not, without the prior written consent of the Agent, be terminated or modified, or any action be taken or omitted by the Lessee, the taking or omission of which might result in an alteration or impairment of the Lease or the Assignment or this Consent and Agreement or of any of the rights created by any thereof.

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

[CORPORATE SEAL]  GRAND TRUNK WESTERN RAILROAD COMPANY,

By  Vice President

Attest:  Secretary

The foregoing Consent and Agreement is hereby accepted, as of the first day of September, 1973.

THE CONNECTICUT BANK AND TRUST
COMPANY,

as agent,

By.....
Vice President

STATE OF MICHIGAN }
COUNTY OF WAYNE } ss.:

On this *27th* day of *Nov.*, 1973, before me personally appeared *D. G. Woodin* to me personally known, who, being by me duly sworn, says that he is a Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Virginia M. Jansen
Notary Public

[NOTARIAL SEAL]

My Commission expires

VIRGINIA M. JANSEN
Notary Public, Wayne County, Mich.
My Commission Expires 10-27-76

COLLATERAL ASSIGNMENT OF LEASE AND AGREEMENT
dated as of September 1, 1973 (hereinafter called "this Assignment"), by and between NEW ENGLAND MERCHANTS NATIONAL BANK (hereinafter called the Company), acting as trustee under a Trust Agreement dated as of September 1, 1973 (hereinafter call the Trust Agreement), with SECURITY PACIFIC LEASING CORPORATION (hereinafter called the Beneficiary), and THE CONNECTICUT BANK AND TRUST COMPANY, acting as Agent (hereinafter called the Agent) pursuant to a Finance Agreement dated as of September 1, 1973 (hereinafter called the Finance Agreement), among the Agent and the Investors referred to therein (hereinafter called the Investors).

WHEREAS the Company has entered into a Conditional Sale Agreement dated as of September 1, 1973 (hereinafter called the Conditional Sale Agreement), with ORTNER FREIGHT CAR COMPANY (hereinafter called the Builder), providing for the sale to the Company of such units of railroad equipment (hereinafter called the Units) described in Annex B to the Conditional Sale Agreement as are delivered to and accepted by the Company thereunder; and

WHEREAS the Builder has assigned its interests in the Conditional Sale Agreement to the Agent, acting under the Finance Agreement, pursuant to an Agreement and Assignment dated as of September 1, 1973; and

WHEREAS the Company and GRAND TRUNK WESTERN RAILROAD COMPANY (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of September 1, 1973 (hereinafter called the Lease), providing for the leasing by the Company to the Lessee of the Units; and

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

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 13 hereof, the Company hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment and performance of the Company's obligations under the Conditional Sale Agreement, all the Company's right, title and interest as Lessor under the Lease, together with all rights, powers, privileges, and other benefits of the Company as Lessor 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 Company from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, payments with respect to the guarantee of the Conditional Sale Agreement by the Lessee provided for in § 17 of the Lease 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 Company, as Lessor, is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Company hereby irrevocably authorizes and empowers the Agent in its own name, or the name of its nominee, or in the name of the Company or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Company is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Agent agrees to accept any Payments made by the Lessee for the account of the Company pursuant to the Lease. To the extent received, the Agent will apply such Payments to satisfy the obligations of the Company under the Conditional Sale Agreement. So long as no event of default (or event which, with notice or lapse of time, or both, could constitute an event of default) under the Conditional Sale Agreement shall have occurred and be continuing, any balance shall be paid to the Company or to the order of the Company at such address as the Company shall furnish the Agent in writing. The Agent will promptly notify the Company and the Beneficiary of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time would constitute, an event of default under the Conditional Sale Agreement.

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

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

(a) The Company will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Company; without the written consent of the Agent, the Company will not anticipate the rents under the Lease 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 Company agrees that any amendment, modification or termination thereof without such consent shall be void; the Company will hold all Payments received by the Company which are assigned and set over to the Agent by this Assignment in trust for the Agent and will turn them over to the Agent forthwith in the same form in which they are received for application in accordance with the terms and conditions hereof.

(b) At the Company's sole cost and expense, the Company will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of the Company under the Lease.

(c) Should the Company fail to make any payment or to do any act which this Assignment requires the Company to make or do, then the Agent, but without obligation so to do, after first making written demand upon the Company and affording the Company a reasonable period of time within which to make such payment or do such act, but