



WELLS FARGO LEASING CORPORATION

RECORDATION NO. *8395* Filed & Recorded
JAN 4 1977 -4 12 PM
INTERSTATE COMMERCE COMMISSION

December 27, 1976

Registered Mail
RECORDATION NO. *8395* Filed & Recorded
JAN 4 1977 -4 12 PM
INTERSTATE COMMERCE COMMISSION

Office of the Secretary
Interstate Commerce Commission
Washington, D. C. 20423

Re: Lease Between L-Y Leasing Corporate and Wells Fargo Leasing Corporation; Recordation Nos. 8392 and 8393

Gentlemen:

On June 29, 1976, at 2:10 p.m., that certain Lease of Railroad Equipment No. 1 and No. 2 (the "Leases") between L-Y Leasing Corporation ("L-Y"), a Louisiana corporation, as lessee, and Wells Fargo Leasing Corporation ("WFLC"), as lessor, was recorded at your office as Recordation Nos. 8392 and 8393, respectively.

This is to inform you that, via a merger effective on or about January 1, 1977, ~~L-Y~~ Leasing Corporation, a Delaware corporation, has succeeded L-Y as the lessee under the Leases.

Kindly file-mark the original of this letter, return it to me in the enclosed envelope, and file the two copies enclosed herewith, making the appropriate changes to your records to reflect the above-described changes. Our check for \$10.00 is enclosed to cover your filing costs.

Sincerely yours,

Steven A Cooper

Steven A. Cooper
Associate Counsel

SAC:cc

Enclosure

*Changes from L-Y Leasing to
Lyles Leasing Corp. effective 1/1/77*

Interstate Commerce Commission
Washington, D.C. 20423

1/ 2/1/77

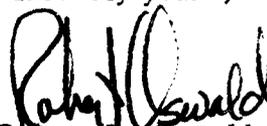
OFFICE OF THE SECRETARY

Steven A. Cooper
Wells Fargo Leasing Corp.
425 Calif. St.
San Francisco, Calif. 94104

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 1/4/77 at 4:10pm and assigned recordation number(s) 8392 & 8393

Sincerely yours,


Robert L. Oswald
Secretary

Enclosure(s)

The Leases between L_Y Leasing Corp. ("L-Y") as Lessee has been changed to Lykes Leasing Corp.

SE-30
(5/76)

8392

RECORDATION NO. Filed & Recorded

JUN 8 1976 12 12 PM

INTERSTATE COMMERCE COMMISSION

To be stamped and ~~returned~~ ^{retained in}
~~to~~ the files of the Inter-
state Commerce Commission

LEASE OF RAILROAD EQUIPMENT

(No. 1)

Dated as of May 1, 1976

Between

L-Y LEASING CORPORATION

and

WELLS FARGO LEASING CORPORATION

LEASE OF RAILROAD EQUIPMENT

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* This Table of Contents has been included in this document for convenience of reference only and does not form a part of, or affect any construction or interpretation of this document.

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LEASE OF RAILROAD EQUIPMENT, dated as of May 1, 1976, between L-Y LEASING CORPORATION (hereinafter called the Lessee) and WELLS FARGO LEASING CORPORATION (hereinafter called the Lessor).

WHEREAS General Electric Company (hereinafter called General Electric) and the Lessor have entered into a Purchase Agreement dated as of the date hereof (hereinafter called the Purchase Agreement), pursuant to which General Electric has sold, and the Lessor has purchased, its right, title and interest in and to the railroad equipment (hereinafter called the Equipment), described in Schedule B to the Purchase Agreement;

WHEREAS the Lessee desires to lease the units of the Equipment at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS Lykes Corporation (hereinafter called the Guarantor) is willing to guarantee to the Lessor, pursuant to a guaranty agreement dated as of the date hereof (hereinafter called the Guarantee Agreement), substantially in the form annexed hereto as Exhibit A, with the Lessor, for the benefit of the Lessor the due and punctual payment of the sums payable by and the due and punctual performance of the obligations of, the Lessee under the terms of this Lease.

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 (as hereinafter defined) to the Lessee upon the following terms and conditions:

Section 1. Delivery and Acceptance of Units. The Lessor will cause each unit of Equipment to be tendered to the Lessee on or prior to December 15, 1976 (hereinafter called the Delivery Date), at the point or points within the United States of America at which such unit is delivered to the Lessor under the Purchase Agreement. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect such unit of Equipment, and if such unit is found to be in good order, to accept delivery of such unit and execute and deliver to the Lessor a certificate of acceptance (hereinafter called the Certificate of

Acceptance), 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 (all such units of Equipment subject to the terms of this Lease being hereinafter called collectively the Units and severally the Unit).

This Lease shall constitute a separate lease as to each Unit as fully as though a separate document in the form of this Lease were executed with respect to each Unit.

If any unit of Equipment is not delivered to and accepted by the Lessee on or prior to December 31, 1976, the Lessor shall have no obligation to lease such unit of Equipment to the Lessee and if the Lessee does not rent such unit of Equipment the Lessee shall pay to the Lessor a fee in the amount of 1% of the Rental Basis (as hereinafter defined) of such unit.

Section 2. Rental. The rental basis (hereinafter called the Rental Basis) for each unit of Equipment is equal to the Purchase Price (as defined in the Purchase Agreement) of such unit paid pursuant to the Purchase Agreement. The Lessee agrees to pay to the Lessor as rental for each Unit 40 consecutive payments in an amount equal to 3.1838% of the Rental Basis of such Unit. The first rental payment for each Unit is payable on the Closing Date (as defined in Article 3 of the Purchase Agreement) held in connection with such Unit under the Purchase Agreement and the remaining rental payments are payable on each quarterly anniversary of such first payment date during the Term of Lease (as hereinafter defined) as to such Unit. All payments provided for herein shall be made by check payable to the order of the Lessor received on the date specified for such payment by the Lessor at its address specified in Section 19 hereof or at such other place as the Lessor shall specify in writing.

If any of the rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding 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 San Francisco, California, are authorized or obligated to remain closed.

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 to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or against General Electric 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 failure of title of the Lessor to any of the Units or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against Lessee's use of all or any of the Units, the taking or requisitioning of any of the Units by condemnation or otherwise, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency, bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. 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.

Section 3. Term of Lease. The term of this Lease (herein sometimes called the Term of Lease) as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of Sections 6, 7, 10 and 13 hereof, shall terminate 90 days after the date on which the final payment of rent in respect thereof is due pursuant to Section 2 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under Sections 6, 10 and 14 hereof) shall survive the

expiration of the Term of Lease.

Section 4. Identification Marks. The Lessee will cause each Unit to be kept numbered with the serial number set forth in Schedule A hereto, or in the case of any Unit not there listed such serial number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the name of the Lessor followed by the word "Owner", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's title to and property in such Unit and the rights of the Lessor under this Lease. The Lessee will not place any Unit in operation or exercise any control or dominion over the same under this Lease 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 serial number of any Unit unless and until a statement of new number or numbers to be substituted therefor shall have been filed with the Lessor and filed, recorded and deposited in all public offices where this Lease shall have been filed, recorded and deposited. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

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.

Section 5. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state or Federal taxes (other than any United States Federal income tax and other than the aggregate of all state and city income taxes and franchise taxes measured by net income based on such receipts or gross receipts taxes other than gross receipts taxes in the nature of sales or use taxes), assessments, documentary stamp taxes, or license fees and any charges, fines or penalties in connection therewith (hereinafter called impositions) now or hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of

title under the terms hereof, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of each 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 Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the advance opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor.

In the event any reports with regard to impositions are required to be made on the basis of individual Units or otherwise, the Lessee will, where permitted to do so under applicable rules or regulations, make and timely file such reports in such manner as to show the interest of the Lessor in the Units as shall be satisfactory to the Lessor or, where not so permitted, will notify the Lessor of such requirement and will prepare and deliver such reports to the Lessor within a reasonable time prior to the time such reports are to be filed in such manner as shall be satisfactory to the Lessor.

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

Section 6. Maintenance; Payment for Casualty Occurrences; Insurance. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in good operating order, repair and condition.

In the event that any Unit shall be or become worn out, unserviceable, lost, stolen, destroyed or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation

or otherwise by the United States Government for a stated period which shall exceed the then remaining Term of Lease with respect to such Unit or for an indefinite period but only when such indefinite period shall exceed the Term of Lease with respect to such Unit, or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days or until the end of the Term of Lease with respect to such Unit (each such occurrence being hereinafter called a Casualty Occurrence) prior to the return of such Unit in the manner set forth in Section 14 hereof, the Lessee shall, within thirty days after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor in writing with respect thereto. Notwithstanding any such Casualty Occurrence, the Lessee shall continue making all payments provided for in this Lease in respect of such Unit until payment of the Casualty Value (as hereinafter defined) of such Unit. Not later than 90 days following a Casualty Occurrence, the Lessee shall pay to the Lessor an amount equal to (a) the Casualty Value as of the date of such payment of the Unit with respect to which the Casualty Occurrence has taken place, (b) any rental payment with respect to such Unit due and payable on such date and (c) the amount payable by the Lessee pursuant to Section 16 hereof as indemnification for the loss by the Lessor of certain tax benefits. Upon the making of all such payments by the Lessee in respect of any Unit, the rental for such Unit shall thereafter cease to accrue, the Term of 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.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Rental Basis of such Unit as is set forth in Schedule B hereto opposite such date with respect to such Unit.

Whenever any Unit shall suffer a Casualty Occurrence at the end of the Term of Lease with respect to such Unit or after termination of this Lease and before such Unit shall have been returned in the manner provided in Section 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 20% of the Rental Basis of such Unit.

Upon the making of any such payment by the Lessee in respect of any Unit (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.

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. 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.

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

The Lessee will, at all times prior to the return of any Unit to the Lessor, at its own expense, cause to be carried and maintained property insurance in respect of such Unit at the time subject hereto, and public liability insurance, in an amount 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 Lessor and the Lessee, as their interests may appear. If the Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor shall, subject to the Lessee having made payment of the Casualty Value in respect of such Unit, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to such Unit paid by the Lessee. 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.

Section 7. Termination Option. In the event that any Unit shall be or shall become obsolete or surplus to the requirements of the Lessee, the Lessee may at its option, upon not less than 90 days' prior written notice to the Lessor, terminate this Lease with respect to such Unit; provided, however, that this Lease shall not terminate pursuant to the preceding provision of this Section 7 on any

date on which an Event of Default shall have occurred or be continuing. During the period from the giving of such notice of termination until the effective date of termination, the Lessee shall use its best efforts to obtain bids for the purchase of such Unit. The Lessee shall certify to the Lessor in writing at the time the Lessee receives each bid, the amount of each bid received by the Lessee and the name and address of the party (who may not be the Lessee or any person, firm or corporation affiliated with the Lessee or the Guarantor) submitting such bid. On the termination date the Lessor shall sell such Unit for cash to the bidder named in the highest bid certified by the Lessee to the Lessor, or otherwise obtained by the Lessor, against receipt of cash in the amount of such bid and the amount of any payment from the Lessee required by the next sentence of this Section 7, and transfer to the purchaser all of its right, title and interest in and to such Unit on an "as-is-where-is" basis free and clear of all claims, liens, security interests and other encumbrances of the Lessor or of anyone claiming through the Lessor. If the net aggregate sale price (after deducting all reasonable out-of-pocket expenses incurred by the Lessor in connection with such sale) of such Unit realized at such sale shall be less than the aggregate Termination Value (as hereinafter defined) of such Unit computed as of such date of sale, the Lessor shall retain the entire net sale price and the Lessee shall pay to the Lessor in cash the excess of such Termination Value over such net sale price. The Termination Value of such Unit as of the date on which this Lease is to terminate as to such Unit as aforesaid shall be an amount equal to that percentage of the Rental Basis of such Unit as is set forth in Schedule C hereto opposite such date. If the net sale price of such Unit computed as of such termination date exceeds the Termination Value of such Unit, the amount of such excess shall be retained by the Lessor.

The Lessor may, but shall be under no obligation to, solicit bids, inquire into the efforts of the Lessee to obtain bids or otherwise take any action in connection with any such sale.

Upon payment of (a) such Termination Value, (b) the rental payment, if any, due and payable on such date and (c) the amount payable by the Lessee pursuant to Section 16 hereof as indemnification for the loss by the Lessor of certain tax benefits, this Lease shall terminate with respect to such Unit and no further rents shall be payable for or in respect thereof.

SECTION 8. Right of Inspection; Annual Reports.

The Lessor shall have the right at its sole cost, risk and expense, by its authorized representatives, 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.

The Lessee will furnish or cause to be furnished to the Lessor (i) within 120 days after the close of the fiscal years of each of the Lessee and the Guarantor, (x) the balance sheet of the Lessee as of the close of such fiscal year, together with the related statements of income and retained earnings for such fiscal year, all in reasonable detail and certified by a Vice President or the Treasurer of the Lessee, and (y) the consolidated balance sheet of the Guarantor and its subsidiaries as of the close of such fiscal year, together with the consolidated statements of income and retained earnings for such fiscal year, all in reasonable detail, prepared in accordance with generally accepted accounting principles and certified by a recognized national firm of independent public accountants, including accompanying notes, (ii) within 120 days after the close of the fiscal years of each of the Lessee and the Guarantor, a certificate of the Lessee and the Guarantor, as the case may be, signed by a principal financial officer or a Vice President of each, to the effect that the signer has reviewed the relevant terms of this Lease and the Guaranty Agreement, as the case may be, and has made, or caused to be made under his supervision, a review of the transactions and condition of the Lessee or the Guarantor, as the case may be, during the preceding fiscal year, and that such review has not disclosed the existence during such period, nor does the signer have knowledge of the existence, as at the date of such certificate, of any condition or event which constitutes a default, an Event of Default (as hereinafter defined) or which, after notice or lapse of time or both, would constitute an Event of Default or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action the Lessee or the Guarantor, as the case may be, has taken or is taking or proposes to take with respect thereto and (iii) from time to time such other information as the Lessor may reasonably request.

Section 9. Disclaimer of Warranties; Compliance with Laws and Rules; 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, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE, OR OTHERWISE, 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 Lease with respect to any of the Units 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 General Electric under the Purchase Agreement; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Unit or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation, or performance of any Unit or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Unit. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that all Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters. The execution of the Certificate of Acceptance will in no way relieve or decrease the responsibility or liability of the manufacturer or vendor of any Unit for any warranties it has made with respect to the same.

The Lessee agrees, for the benefit of the Lessor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving any of the Units may extend, and with all lawful rules of any executive, administrative or

judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the Lessor's title to the Units, or Lessee's operation or use of the Units, and in the event that, prior to the expiration of this Lease or any renewal thereof, such laws or rules require any alteration, replacement, addition or modification of or to any part of any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the advance opinion of the Lessor, adversely affect the property or rights of the Lessor under this Lease. The Lessee, at its own cost and expense, may furnish additions, modifications and improvements to the Units during the term of this Lease provided that such additions, modifications and improvements are readily removable without causing material damage to the Units. The additions, modifications and improvements made by the Lessee under the first sentence of this paragraph shall be owned by the Lessor, and the additions, modifications and improvements made by the Lessee under the second sentence of this paragraph shall be owned by the Lessee.

The Lessee agrees to indemnify, protect and hold harmless the Lessor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, reasonable counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as a result of (i) the entering into or the performance of the Purchase Agreement or this Lease, or any of the instruments or agreements referred to therein or herein or contemplated thereby or hereby, (ii) the ownership of any unit of Equipment or any Unit, (iii) the ordering, acquisition, use, operation, condition, reconstruction, purchase, delivery, rejection, storage or return of any unit of Equipment or any Unit, (iv) any accident in connection with the operation, use, condition, reconstruction, possession, storage or return of any Unit, resulting in damage to property or injury or death to any person, except as otherwise provided in Section 14 of this Lease. The foregoing indemnification provision shall not apply to any failure of payment of any of the principal or interest payable with respect to the Purchase Price (as defined in the Purchase Agreement) of the units of Equipment under the Purchase Agreement.

either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease as to all of the Units or only as to the Unit or Units with respect to which an Event of Default shall have occurred, whereupon all rights of the Lessee to the use of such Units shall absolutely cease and terminate as though this Lease had never been made as to such Units, but the Lessee shall remain liable as herein 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, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Units for any purpose whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; 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 (i) as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each such Unit, equal to the excess of 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 each such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, 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; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or

delivered to the Lessee, reasonable wear and tear for the use in a steel mill (to the extent so used) excepted. 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 of the Lessee or its affiliates as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) cause the same to be transported to any place on the lines of any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep any Unit or Units delivered pursuant to this Section 11 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 or Units, 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.

All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 11,

the Lessee hereby irrevocably appoints the Lessor as the agent and attorney-in-fact 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 whosoever shall be in possession of such Unit at the time.

Section 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.

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

Subject to the terms of this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it or any affiliate, including the rental or sublease thereof to any affiliate, solely upon the property of the Lessee or any such affiliate in connection with the activities of such affiliates, but only upon and subject to all the terms and conditions of this Lease, including the last paragraph of this Section 12; provided, however, that no such use, rental or sublease shall in any way relieve the Lessee of any of its obligations hereunder.

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

The Lessee agrees that during the term of this Lease, it will not assign any Unit to service involving the regular operation and maintenance thereof outside the United States of America.

Section 13. Renewal Option; Purchase Option. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may elect, by written notice delivered to the Lessor not less than 120 days prior to the end of the original term of this Lease, to extend the term of this Lease in respect of any Unit covered by this Lease for such additional rental period or periods as to which the Lessor and the Lessee may mutually agree, at a rental payable in an amount equal to the "Fair Market Rental" of such Units as of the commencement of such extended term.

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

Provided that the Lessee is not in default, the Lessee shall have the right to purchase any Unit then leased hereunder at the expiration of the original term or of any renewal term pursuant to this Section 13 at a price equal to the Fair Market Value (as hereinafter defined) of such Unit. The Lessee shall give the Lessor written notice 120 days prior to the end of the term of its election to exercise the

purchase option provided for in this Section 13. Payment of the option price shall be made at the place of payment specified in Section 2 hereof in immediately available funds against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Unit or Units and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Unit or Units or any other matters.

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

Notwithstanding any election of the Lessee to purchase as provided in this Section 13, the provisions of Section 6 hereof shall continue in full force and effect until the date of purchase and the passage of ownership of the Units purchased by the Lessee upon such date unless the purchase price has been agreed upon by the parties pursuant to this Section 13, in which event the amount payable under Section 6 hereof shall be the greater of the amount otherwise payable under said Section 6 or such purchase price.

If on or before three months prior to the expiration of any term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental or the Fair Market Value, as the case may be, of the Units, each value shall be determined in accordance with the foregoing definitions, respectively, by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers so appointed shall within 35 business

days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine such value of the Units within 30 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of such value of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as such value. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. Except as otherwise expressly provided herein, the provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and/or Fair Market Value, as the case may be, and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. If a single appraiser shall be appointed pursuant to the foregoing provisions of this sixth paragraph of this Section 13, the parties shall each pay 50% of the cost of the appraisal procedure; and if each party shall appoint an appraiser, each party shall pay the cost of the appraiser appointed by it and 50% of the cost of the third appraiser and of any other cost of the appraisal procedure.

Section 14. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the original or any extended Term of Lease with respect to any Unit but in any event not later than 90 days after such expiration, 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 storage tracks of the Lessee or any of its affiliates 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 and cause the same to be transported, at any time within such three-month

period, to any connecting carrier within any State of the United States of America or within the District of Columbia in which such Unit is located for shipment, all as directed by the Lessor, the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any 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. Each Unit returned to the Lessor pursuant to this Section 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear for the use in a steel mill (to the extent so used) excepted and (ii) have removed therefrom by the Lessee without cost or expense to the Lessor all additions, modifications and improvements which the Lessee owns pursuant to Section 9 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and cause the transportation of the Units.

All amounts earned in respect of any Unit after the end of the Term of Lease with respect to such Unit shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

Section 15. Representations and Warranties; Opinion of Counsel. The Lessee represents and warrants for the benefit of the Lessor that:

(i) the Lessee and the Guarantor are corporations duly organized and validly existing in good standing under the laws of their states of incorporation and are duly qualified and authorized to do business wherever necessary to perform their obligations under this Lease and the Guaranty Agreement, as the case may be;

(ii) the Lessee and the Guarantor have the full power, authority and legal right to enter into and

perform their obligations under this Lease and the Guaranty Agreement, as the case may be;

(iii) neither the Lessee nor the Guarantor is a party to any agreement or instrument or subject to any charter or other corporate restriction which will materially adversely affect its financial condition, business or operations or the ability of the Lessee or the Guarantor to perform its obligations under this Lease or the Guaranty Agreement, as the case may be;

(iv) neither the execution and delivery of this Lease or the Guaranty Agreement nor the consummation of the transactions herein or therein contemplated or the fulfillment of, or compliance with, the terms and provisions hereof and thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court or governmental instrumentality, or of the corporate charter (as amended) or the by-laws (as amended) of the Lessee or the Guarantor or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Lessee or the Guarantor is now a party or by which it may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder;

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

(vi) no authorization or approval is required from any governmental or public body with respect to the entering into or performance by the Lessee of this Lease or by the Guarantor of the Guaranty Agreement;

(vii) this Lease and the Guaranty Agreement have been duly authorized, executed and delivered by the Lessee and the Guarantor, as the case may be, and, assuming due authorization, execution and delivery thereof by the other parties thereto, are legal, valid and binding

agreements, enforceable in accordance with their terms; subject as to the enforcement of remedies to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally;

(viii) no adverse change has occurred in the financial condition of the Lessee since December 31, 1975;

(ix) the transactions contemplated by this Lease will raise no presumption of fraud as against and will be effective against all creditors of the Lessee under applicable state and Federal laws, including, without limitation, laws relating to fraudulent conveyances or bulk transfers; and

(x) the Units shall be used and operated by the Lessee or its affiliates upon the property of the Lessee or the property of its affiliates in connection with the activities of its affiliates and that the Lessee or its affiliates shall not use or operate the Units on any other property or in connection with any other activities.

Simultaneously with the execution and delivery of this Lease the Lessee will deliver to the Lessor counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor, in scope and substance satisfactory to the Lessor and its counsel, to the effect set forth in clauses (i), (ii), (iv), (v), (vi), (vii) and (ix).

Section 16. Federal Income Taxes. This Lease has been entered into on the assumptions that (A) the Lessor, as the owner of the Units, will be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), to the owner of property, including, without limitation (1) the maximum depreciation deduction with respect to the Units authorized under Section 167 of the Code (a) utilizing a 10-year depreciable life, (b) employing initially the 200% declining balance method of depreciation with a change, not requiring the consent of the Commissioner of Internal Revenue, to the method of depreciation most beneficial to the Lessor, (c) including in the Basis of each of the Units the entire Purchase Price thereof (herein called the Basis), (d) taking into account a salvage value, after the reduction allowed by Section 167(f) of the Code, of 10% of the Purchase Price of the Units, and

(e) calculated on the assumption that each Unit is first placed in service by the Lessor during 1976 (hereinafter called the Depreciation Deduction); and (2) the 10% investment credit with respect to 100% of the Basis of the Units, pursuant to Section 38 and related sections of the Code, such investment credit to be available to the Lessor for the year 1976 (hereinafter called the Investment Credit); and (B) all items of income, deduction and credit with respect to this Lease will be treated as attributable to sources within the United States.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the assumptions set forth in the first paragraph of this Section 16. The Lessee agrees to (A) make available for inspection and copying by the Lessor such records as the Lessor shall reasonably request to enable the Lessor to determine whether it is entitled to the full benefit of the Depreciation Deduction and the Investment Credit with respect to the Units, and (B) keep and make available for inspection and copying by the Lessor such records as will enable the Lessor to determine whether it is entitled to treat all items of income, deduction and credit with respect to this Lease as attributable to sources within the United States.

The Lessee represents and warrants that (i) all the Units constitute property the entire Basis of which qualifies for the 10% Investment Credit under Section 46 of the Code; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code, and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; (iii) at all times during the Term of Lease, each Unit then subject to this Lease will constitute "section 38 property" within the meaning of Section 48(a) of the Code; and (iv) none of the Units will be "used predominantly outside the United States" within the meaning of Section 48(a)(2) of the Code.

If (A) for any reason whatsoever (other than for the reasons set forth below) all or any part of the Depre-

as amended
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ciation Deduction or the Investment Credit with respect to any Unit shall be unavailable in computing each of the items of income, gain, loss, deduction or credit of the Lessor, or (B) the Lessor shall not be entitled to treat all items of income, deduction and credit with respect to this Lease as attributable to sources within the United States for any taxable year (or portion thereof) during which this Lease is in effect as the result of the location of any Unit outside the United States, then the rental applicable to such Unit set forth in Section 2 shall, on the next succeeding rental payment date after written notice to the Lessee by the Lessor of such fact, be increased by such amount as shall be required, in the reasonable opinion of the Lessor, to cause the Lessor's net after-tax annual cash flow and net after-tax rate of return to be the same as such net after-tax annual cash flow and net after-tax rate of return would have been had the Depreciation Deduction and the Investment Credit been wholly available and had the Lessor been entitled to treat all items of income, deduction and credit with respect to this Lease as attributable to sources within the United States; provided, however, that such rental shall not be so increased to the extent that the Depreciation Deduction or the Investment Credit with respect to such Unit is unavailable as a direct result of the occurrence of any of the following events:

RED

(i) a ~~voluntary~~ transfer (other than a transfer pursuant to the terms of Section 6 or Section 7 hereof) by the Lessor of legal title to such Unit, a voluntary disposition by the Lessor of any interest in such Unit or a voluntary reduction by the Lessor of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;

(ii) the failure of the Lessor to claim the Investment Credit or the Depreciation Deduction, or to make a timely election in connection therewith, on its income tax return for the appropriate year, unless the Lessor shall have received an opinion of independent tax counsel to the effect that the Lessor is not entitled to claim the Depreciation Deduction or the Investment Credit, as applicable; or

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

In the event a claim shall be made against the Lessor which, if successful, would result in payment by the Lessee of increased rental pursuant to the preceding paragraph, and if, in the opinion of the Lessor's or the Lessee's tax counsel (hereinafter called Counsel), a bona fide defense to such claim exists, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such defense; provided, however, that the Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses that may be entailed therein. The Lessor may ~~at its option~~, take such action prior to making payment of any tax, interest or penalty with respect to such claim (hereinafter called a Tax Payment) or may make such Tax Payment and then sue for a refund. If the Lessor takes such action prior to making such Tax Payment, such increased rental need not be paid by the Lessee while such action is pending. In such case, if the final determination shall be adverse to the Lessor, the increased rental shall be computed by the Lessor as of the date of such final determination and the Lessee shall commence payment thereof on the rental payment date next succeeding such final determination and, on or before such rental payment date, the Lessee shall pay to the Lessor as additional rental ⁽²⁾ an amount which, when reduced by any increase in the Lessor's income tax liability or liabilities resulting from the Lessor's receipt of such additional rental, will equal the amount of all interest and penalty paid by the Lessor in respect of such final determination. If the Lessor makes such Tax Payment and then sues for a refund, such increased rental shall commence to be payable by the Lessee on the first rental payment date after such Tax Payment is made and, on or before such rental payment date, the Lessee shall pay to the Lessor as additional rental an amount which, when reduced by the increase in the Lessor's income tax liability or liabilities resulting from the Lessor's receipt of such additional rental (after taking into account any available deductions with respect thereto), will equal the amount of all interest and penalty paid by the Lessor included in such Tax Payment. In such case, if the final determination shall be in favor of the Lessor, (A) the rental payable by the Lessee to the Lessor shall be adjusted by such amount as shall be required, in the reasonable opinion of the Lessor, and pursuant to the assumptions set forth in the immediately preceding paragraph, to cause the Lessor's net after-tax annual cash flow and net

(1) with consent of the Lessee, ²⁵⁰
 (2) (after taking into account any available deductions with respect thereto) ²⁵⁰

after-tax rate of return to be the same as such net after-tax annual cash flow and net after-tax rate of return would have been if such Tax Payment had not been made (or such adjustment shall be made proportionately if the final determination is partly in favor of and partly adverse to the Lessor) and such adjusted rental shall be payable by the Lessee on the rental payment date next succeeding such final determination and thereafter, and (B) the Lessor shall pay to the Lessee an amount which, when reduced by the tax benefit to the Lessor resulting from the payment of such amount, will equal the amount of any penalty or interest refunded to the Lessor as a result of such final determination and any interest on such refunded penalty and interest paid to the Lessor by the government, promptly upon receipt thereof.

If for any reason whatsoever all or any part of the cost of any improvement and/or addition to a Unit or any expenditure by the Lessee in respect of any Unit or this Lease (hereinafter called Additional Expenditures) made by the Lessee under and pursuant to the terms of this Lease or otherwise is required to be included in the gross income of the Lessor for Federal, state or local income tax purposes at any time prior to the time such Unit is disposed of in a taxable transaction, then the rentals for the Units set forth in Section 2 shall, beginning on the next succeeding rental payment date after the date on which the Lessee is required to furnish written notice to the Lessor pursuant to the following sentence that such inclusion in the Lessor's gross income is required, be increased to such amount or amounts as shall, in the reasonable opinion of the Lessor (after taking into account any present or future tax benefits that the Lessor reasonably anticipates it will derive from its additional investment in the Units by reason of such inclusion, including, without limitation, any current deductions, future depreciation deductions and investment tax credit), cause the Lessor's net after-tax annual cash flow and net after-tax rate of return (calculated on the same basis as used by the Lessor in originally evaluating this transaction) in respect of the Units over the Term of Lease with respect to such Units to be at least the same as such net after-tax annual cash flow and net after-tax rate of return, respectively, would have been if the cost of such Additional Expenditures had not been includible in the Lessor's gross income. The Lessee agrees that, within 30 days after the close of any calendar year (or, in the event the Lessor gives the Lessee written notice that the Lessor's taxable year closes on a date specified therein

other than December 31, within 30 days after said date) in which the Lessee has made Additional Expenditures which are required to be included in the gross income of the Lessor for Federal, state or local income tax purposes prior to the time such Unit is disposed of in a taxable transaction, the Lessee will give written notice thereof to the Lessor describing such Additional Expenditures in reasonable detail.

In the event that the Lessee shall pay all or any portion of any instalment of rental prior to the date upon which such payment is herein required to be made, the Lessee shall pay to the Lessor an amount which, after deduction of all taxes and other charges in respect of the receipt of such amount under the laws of any Federal, state or local governmental or taxing authority in the United States or under the laws of any foreign country or subdivision of any taxing authority thereof, shall be equal to the excess of (A) the taxes and other charges payable by the Lessor as a result of the receipt of such instalment of rental over (B) the taxes and other charges that would have been payable by the Lessor had such instalment of rent been paid by the Lessee on the date upon which such payment is herein required to be made.

In the event the rental rates shall be adjusted as hereinbefore provided, the Casualty Values and Termination Values set forth or referred to in Section 6 and Section 7 hereof, respectively, shall be adjusted accordingly.

For the purposes of this Section 16, the term "Lessor" shall be deemed to include any group filing consolidated tax returns of which the Lessor is a member.

The Lessee's and the Lessor's agreements to pay any sums which may become payable pursuant to this Section 16 shall survive the expiration or other termination of this Lease.

Section 17. Severability. 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.

Section 18. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations when due here-

under shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 10% 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.

Section 19. Notices. Any instruction or notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States mails, first-class postage prepaid, addressed as follows:

if to the Lessor, at

425 California Street,
San Francisco, California 94104,

Attention of Contract Administration,

if to the Lessee, at

Lykes Center, 300 Poydras Street,
New Orleans, Louisiana 70130,

Attention of ~~Wayne Edwards, Esq.,~~ Assistant Treasurer,

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

Section 20. Effect and Modification of Lease. 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 officers of the Lessor and the Lessee.

Section 21. Recording. The Lessee will from time to time execute, acknowledge and deliver any and all instruments, documents, assignments, amendments or supplements which in the Lessor's opinion are necessary for the purpose of proper protection, to the satisfaction of counsel for the Lessor, of its title to the Units and its rights under this Lease or for the purpose of carrying out the intention of this Lease. The Lessee will from time to time do and perform

G.S. Kimmel
Vice President-Finance

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 Lessor for the purposes specified in this Section 21.

Section 22. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Lessor shall be deemed to be the original counterpart. It shall not be necessary that any counterpart be signed by both parties so long as each party shall sign at least one counterpart. Although this Lease is dated as of the date first set forth above for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

Section 23. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of California.

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 officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

WELLS FARGO LEASING CORPORATION,

by

Charles A. Gray
Vice President

[Corporate Seal]

Attest:

Ronald E. Hill
~~Assistant Secretary~~
VICE PRESIDENT

L-Y LEASING CORPORATION,

by

Vice President

[Corporate Seal]

Attest:

Attesting Officer

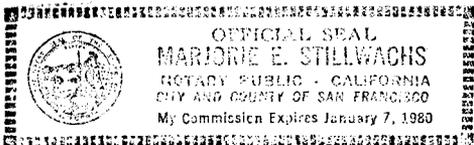
STATE OF *California*,)
COUNTY OF *San Francisco*) SS.:

On this *21st* day of *June*, 1976, before me personally appeared *Charles A. Greenberg*, to me personally known, who, being by me duly sworn, says that he is a Vice President of WELLS FARGO LEASING 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.

Marjorie E. Stillwachs
Notary Public

[Notarial Seal]

My Commission expires



SCHEDULE A

<u>Quantity</u>	<u>Description</u>	<u>Serial Numbers</u>	<u>Specifications</u>
4	135-Ton Standard- gauge Locomotives	96430, 96031, 96113 and 98592	General Electric No. 526 per quotation number CLRB: 511-374

SCHEDULE B

Casualty Value Percentages Schedule

<u>From the Due Date for Rental Payment Number:</u>	<u>Until the Due Date for Rental Payment Number:</u>	<u>The Casualty Value as a Percentage of the Rental Basis for Each Unit Is:</u>
1	2	101.99715
2	3	100.93931
3	4	99.82649
4	5	98.65869
5	6	97.43591
6	7	96.15815
7	8	94.82540
8	9	93.43767
9	10	91.99497
10	11	90.49728
11	12	88.94460
12	13	87.33695
13	14	85.67431
14	15	83.95669
15	16	82.18409
16	17	80.35651
17	18	78.47395
18	19	76.53640
19	20	74.54388
20	21	72.49637
21	22	70.39388
22	23	68.23641
23	24	66.02395
24	25	63.75652
25	26	61.43410
26	27	59.05670
27	28	56.62431
28	29	54.13695
29	30	51.59461
30	31	48.99728
31	32	46.34497
32	33	43.63768
33	34	40.87540
34	35	38.05815

<u>From the Due Date for Rental Payment Number:</u>	<u>Until the Due Date for Rental Payment Number:</u>	<u>The Casualty Value as a Percentage of the Rental Basis for Each Unit Is:</u>
35	36	35.18591
36	37	32.25869
37	38	29.27649
38	39	26.23931
39	40	23.14715
40	until end of lease	20.00000

SCHEDULE C

Termination Value Percentage Schedule

From The Due Date for Rental <u>Payment Number:</u>	Until the Due Date for Rental Payment <u>Number:</u>	The Termination Value as a Percentage of the Rental Basis for Each Unit of <u>Equipment Is:</u>
1	2	103.99715
2	3	102.93931
3	4	101.82649
4	5	100.65869
5	6	99.43591
6	7	98.15815
7	8	96.82540
8	9	95.43767
9	10	93.99497
10	11	92.49728
11	12	90.94460
12	13	89.33695
13	14	87.67431
14	15	85.95669
15	16	84.18409
16	17	82.35651
17	18	80.47395
18	19	78.53640
19	20	76.54388
20	21	74.49637
21	22	72.39388
22	23	70.23641
23	24	68.02395
24	25	65.75652
25	26	63.43410
26	27	61.05670
27	28	58.62431
28	29	56.13695
29	30	53.59461
30	31	50.99728
31	32	48.34497
32	33	45.63768
33	34	42.87540
34	35	40.05815

<u>From</u> <u>The Due</u> <u>Date for</u> <u>Rental</u> <u>Payment Number:</u>	<u>Until the Due</u> <u>Date for</u> <u>Rental Payment</u> <u>Number:</u>	<u>The Termination Value</u> <u>as a Percentage of</u> <u>the Rental Basis</u> <u>for Each Unit of</u> <u>Equipment Is:</u>
35	36	37.18591
36	37	34.25869
37	38	31.27649
38	39	28.23931
39	40	25.14715
40	Until end of Lease	22.00000

EXHIBIT A TO LEASE NO. 1

GUARANTY AGREEMENT

Dated as of May 1, 1976

Between

LYKES CORPORATION

and

WELLS FARGO LEASING CORPORATION

GUARANTY AGREEMENT dated as of May 1, 1976, between LYKES CORPORATION (hereinafter called the Guarantor) and WELLS FARGO LEASING CORPORATION (hereinafter called the Lessor).

WHEREAS, pursuant to Leases of Railroad Equipment dated as of the date hereof (hereinafter called the Leases) between the Lessor and L-Y LEASING CORPORATION (hereinafter called the Lessee), the Lessee is willing to lease the units of railroad equipment (hereinafter called the Units) specified in the Leases;

WHEREAS as an inducement to the Lessor to enter into the Leases with the Lessee and to lease the Units to the Lessee, the Guarantor is willing to guarantee as hereinafter provided all obligations and covenants of the Lessee under the Leases;

NOW, THEREFORE, in consideration of the premises and the execution and delivery of the Leases and of other good and valuable consideration and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Guarantor hereby unconditionally guarantees to the Lessor the due and punctual payment by the Lessee of all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in each of the Leases due and to be due under each of the Leases in respect of the Units thereunder, and the due and punctual performance of all obligations of the Lessee under each of the Leases.

The Guarantor unconditionally agrees that, whenever an attorney is used to enforce this Agreement or to enforce or adjudicate any rights or obligations under this Agreement, whether by suit or by any other means whatsoever, and provided that the Lessor is afforded or granted any relief, full or partial, all reasonable costs and fees of such attorney shall be payable by the Guarantor.

2. The Guarantor hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of the Leases or either of them or this Agreement or any conduct of the Lessee and/or the Lessor

which might constitute a legal or equitable discharge of a surety or guarantor and irrespective of any circumstances which might limit the recourse of the Lessor to the Lessee. The Guarantor hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver by the Lessor of any of its rights hereunder or under the Leases or either of them and no action by the Lessor to enforce any of its rights hereunder or under the Leases or either of them or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

No agreement, unless in writing and signed by the Lessor, and no course of dealing between the Lessee and/or the Guarantor and the Lessor shall be effective to change or modify or to discharge in whole or in part this Agreement. No consent or waiver of any rights or powers of the Lessor shall be valid unless in writing and signed by the Lessor.

The Lessor may, with the consent of the Lessee but without notice to the Guarantor, amend the Leases or either of them or renew, extend or modify any of the Lessee's obligations thereunder without affecting the Guarantor's liability hereunder, which shall be total and absolute; provided, however, that no amendment to the Leases or either of them shall increase the liability of the Guarantor hereunder without the written consent of the Guarantor.

The Guarantor waives any right to require that any action be brought against the Lessee or any other person before proceeding against the Guarantor hereunder. This Agreement shall not be limited to any specific time or period so long as the Lessee shall have any obligations whatsoever under either of the Leases. Any final judgment recovered by the Lessor against the Lessee with respect to an obligation of the Lessee under either of the Leases shall be conclusive against the Guarantor in so far as it relates to the payment of money regardless of whether the Guarantor was joined as party to the action. The Lessor shall use best efforts to give reasonable notice to the Guarantor of the institution by it of any proceedings against the Lessee; provided, however, that notwithstanding any failure to give such notice the obligations of the Guarantor hereunder shall not be affected.

3. The Guarantor hereby acknowledges that it has received copies of each of the Leases and is fully aware of all the terms and conditions thereof.

The obligations of the Lessor shall conclusively be presumed to have been created, contracted or incurred in reliance upon, among other things, this Agreement.

4. Each reference herein to the Lessee shall be deemed to include its successors and assigns. Each reference herein to the Lessor shall be deemed to include its successors and assigns. Each reference herein to the Guarantor shall be deemed to include the legal representatives, successors and assigns of the Guarantor, all of whom shall be bound by the provisions of this Agreement.

5. This Agreement shall in all respects be governed by and construed in accordance with the laws of the State of California.

6. The Guarantor hereby submits to the nonexclusive jurisdiction of the courts of the State of Ohio and the Federal courts of the United States of America located in such state solely in respect of the interpretation and enforcement of the provisions hereof and the Leases and hereby waives and agrees not to assert as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of the Leases that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in such courts or that this Agreement or the Leases may not be enforced in or by such courts. The Guarantor agrees that service of process may be made upon it by service upon any affiliate of the Guarantor located in the State of Ohio (or such other person located therein which from time to time may be designated by the Guarantor in writing) in any action, suit or proceeding against the Guarantor with respect to this Agreement and the Leases and hereby irrevocably appoints each such affiliate as its agent upon which process may be served in any action, suit or proceeding, it being understood that such appointment or designation shall become effective without any further action on the part of the Guarantor. Final judgment against the Guarantor in any action, suit or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment, a certified copy of which shall be conclusive evidence of the fact and amount of indebtedness arising from such judgment.

7. Notwithstanding anything contained herein to the contrary, the Guarantor's liability hereunder is

limited to \$2,475,000 exclusive of any costs or fees of attorneys described in the second paragraph of Section 1 hereof.

IN WITNESS WHEREOF, the parties, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals hereunder to be affixed and duly attested, as of the date first above written.

LYKES CORPORATION,

by

[Corporate Seal]

Vice President

Attest:

Assistant Secretary

WELLS FARGO LEASING CORPORATION,

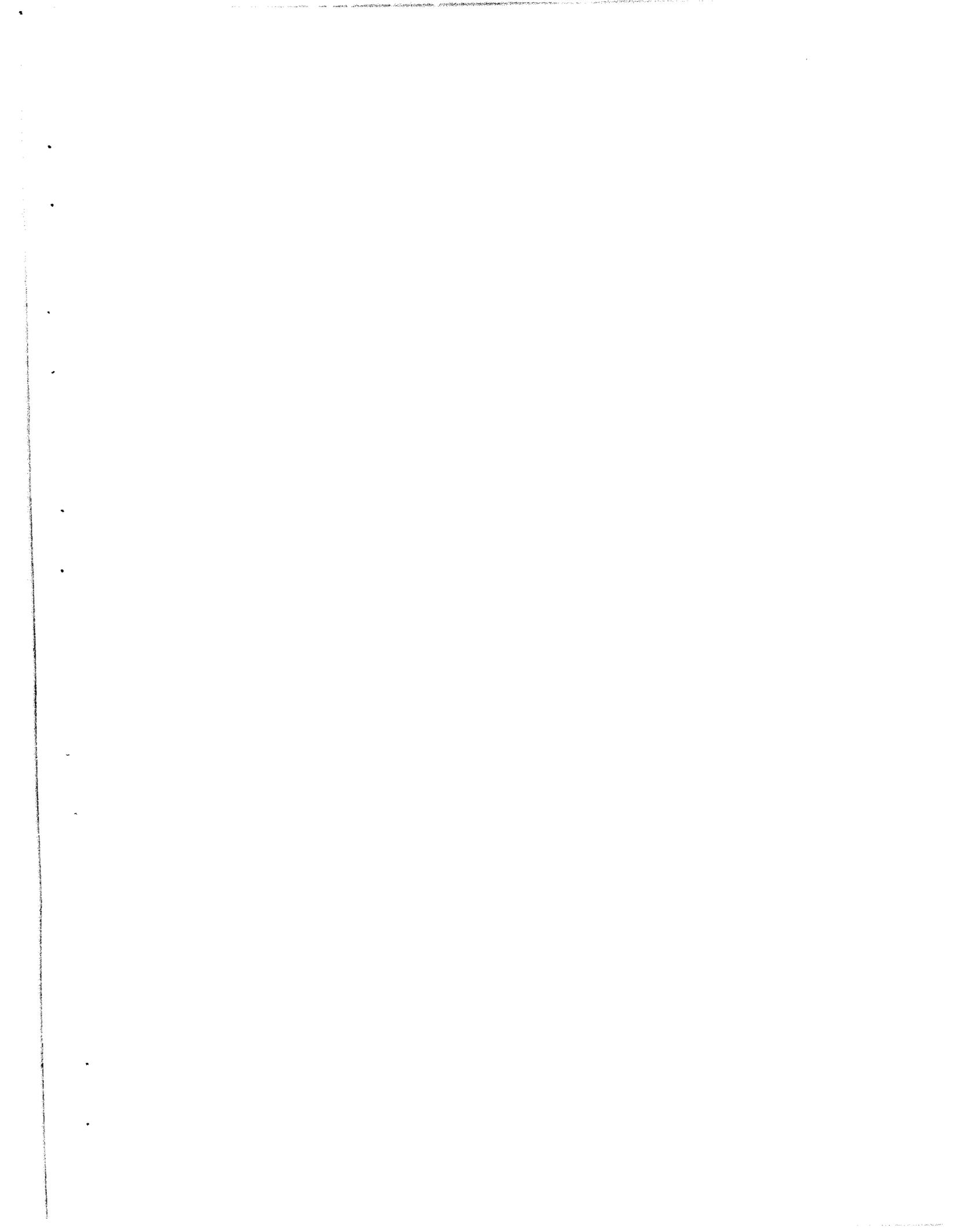
by

[Corporate Seal]

Vice President

Attest:

Assistant Secretary



LEASE OF RAILROAD EQUIPMENT

(No. 1)

Dated as of May 1, 1976

Between

L-Y LEASING CORPORATION

and

WELLS FARGO LEASING CORPORATION

LEASE OF RAILROAD EQUIPMENT

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LEASE OF RAILROAD EQUIPMENT, dated as of May 1, 1976, between L-Y LEASING CORPORATION (hereinafter called the Lessee) and WELLS FARGO LEASING CORPORATION (hereinafter called the Lessor).

WHEREAS General Electric Company (hereinafter called General Electric) and the Lessor have entered into a Purchase Agreement dated as of the date hereof (hereinafter called the Purchase Agreement), pursuant to which General Electric has sold, and the Lessor has purchased, its right, title and interest in and to the railroad equipment (hereinafter called the Equipment), described in Schedule B to the Purchase Agreement;

WHEREAS the Lessee desires to lease the units of the Equipment at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS Lykes Corporation (hereinafter called the Guarantor) is willing to guarantee to the Lessor, pursuant to a guaranty agreement dated as of the date hereof (hereinafter called the Guarantee Agreement), substantially in the form annexed hereto as Exhibit A, with the Lessor, for the benefit of the Lessor the due and punctual payment of the sums payable by and the due and punctual performance of the obligations of, the Lessee under the terms of this Lease.

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 (as hereinafter defined) to the Lessee upon the following terms and conditions:

Section 1. Delivery and Acceptance of Units. The Lessor will cause each unit of Equipment to be tendered to the Lessee on or prior to December 15, 1976 (hereinafter called the Delivery Date), at the point or points within the United States of America at which such unit is delivered to the Lessor under the Purchase Agreement. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect such unit of Equipment, and if such unit is found to be in good order, to accept delivery of such unit and execute and deliver to the Lessor a certificate of acceptance (hereinafter called the Certificate of

Acceptance), 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 (all such units of Equipment subject to the terms of this Lease being hereinafter called collectively the Units and severally the Unit).

This Lease shall constitute a separate lease as to each Unit as fully as though a separate document in the form of this Lease were executed with respect to each Unit.

If any unit of Equipment is not delivered to and accepted by the Lessee on or prior to December 31, 1976, the Lessor shall have no obligation to lease such unit of Equipment to the Lessee and if the Lessee does not rent such unit of Equipment the Lessee shall pay to the Lessor a fee in the amount of 1% of the Rental Basis (as hereinafter defined) of such unit.

Section 2. Rental. The rental basis (hereinafter called the Rental Basis) for each unit of Equipment is equal to the Purchase Price (as defined in the Purchase Agreement) of such unit paid pursuant to the Purchase Agreement. The Lessee agrees to pay to the Lessor as rental for each Unit 40 consecutive payments in an amount equal to 3.1838% of the Rental Basis of such Unit. The first rental payment for each Unit is payable on the Closing Date (as defined in Article 3 of the Purchase Agreement) held in connection with such Unit under the Purchase Agreement and the remaining rental payments are payable on each quarterly anniversary of such first payment date during the Term of Lease (as hereinafter defined) as to such Unit. All payments provided for herein shall be made by check payable to the order of the Lessor received on the date specified for such payment by the Lessor at its address specified in Section 19 hereof or at such other place as the Lessor shall specify in writing.

If any of the rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding 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 San Francisco, California, are authorized or obligated to remain closed.

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 to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or against General Electric 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 failure of title of the Lessor to any of the Units or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against Lessee's use of all or any of the Units, the taking or requisitioning of any of the Units by condemnation or otherwise, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency, bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. 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.

Section 3. Term of Lease. The term of this Lease (herein sometimes called the Term of Lease) as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of Sections 6, 7, 10 and 13 hereof, shall terminate 90 days after the date on which the final payment of rent in respect thereof is due pursuant to Section 2 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under Sections 6, 10 and 14 hereof) shall survive the

expiration of the Term of Lease.

Section 4. Identification Marks. The Lessee will cause each Unit to be kept numbered with the serial number set forth in Schedule A hereto, or in the case of any Unit not there listed such serial number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the name of the Lessor followed by the word "Owner", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's title to and property in such Unit and the rights of the Lessor under this Lease. The Lessee will not place any Unit in operation or exercise any control or dominion over the same under this Lease 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 serial number of any Unit unless and until a statement of new number or numbers to be substituted therefor shall have been filed with the Lessor and filed, recorded and deposited in all public offices where this Lease shall have been filed, recorded and deposited. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

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.

Section 5. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state or Federal taxes (other than any United States Federal income tax and other than the aggregate of all state and city income taxes and franchise taxes measured by net income based on such receipts or gross receipts taxes other than gross receipts taxes in the nature of sales or use taxes), assessments, documentary stamp taxes, or license fees and any charges, fines or penalties in connection therewith (hereinafter called impositions) now or hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of

title under the terms hereof, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of each 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 Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the advance opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor.

In the event any reports with regard to impositions are required to be made on the basis of individual Units or otherwise, the Lessee will, where permitted to do so under applicable rules or regulations, make and timely file such reports in such manner as to show the interest of the Lessor in the Units as shall be satisfactory to the Lessor or, where not so permitted, will notify the Lessor of such requirement and will prepare and deliver such reports to the Lessor within a reasonable time prior to the time such reports are to be filed in such manner as shall be satisfactory to the Lessor.

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

Section 6. Maintenance; Payment for Casualty Occurrences; Insurance. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in good operating order, repair and condition.

In the event that any Unit shall be or become worn out, unserviceable, lost, stolen, destroyed or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation

or otherwise by the United States Government for a stated period which shall exceed the then remaining Term of Lease with respect to such Unit or for an indefinite period but only when such indefinite period shall exceed the Term of Lease with respect to such Unit, or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days or until the end of the Term of Lease with respect to such Unit (each such occurrence being hereinafter called a Casualty Occurrence) prior to the return of such Unit in the manner set forth in Section 14 hereof, the Lessee shall, within thirty days after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor in writing with respect thereto. Notwithstanding any such Casualty Occurrence, the Lessee shall continue making all payments provided for in this Lease in respect of such Unit until payment of the Casualty Value (as hereinafter defined) of such Unit. Not later than 90 days following a Casualty Occurrence, the Lessee shall pay to the Lessor an amount equal to (a) the Casualty Value as of the date of such payment of the Unit with respect to which the Casualty Occurrence has taken place, (b) any rental payment with respect to such Unit due and payable on such date and (c) the amount payable by the Lessee pursuant to Section 16 hereof as indemnification for the loss by the Lessor of certain tax benefits. Upon the making of all such payments by the Lessee in respect of any Unit, the rental for such Unit shall thereafter cease to accrue, the Term of 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.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Rental Basis of such Unit as is set forth in Schedule B hereto opposite such date with respect to such Unit.

Whenever any Unit shall suffer a Casualty Occurrence at the end of the Term of Lease with respect to such Unit or after termination of this Lease and before such Unit shall have been returned in the manner provided in Section 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 20% of the Rental Basis of such Unit.

Upon the making of any such payment by the Lessee in respect of any Unit (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.

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. 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.

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

The Lessee will, at all times prior to the return of any Unit to the Lessor, at its own expense, cause to be carried and maintained property insurance in respect of such Unit at the time subject hereto, and public liability insurance, in an amount 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 Lessor and the Lessee, as their interests may appear. If the Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor shall, subject to the Lessee having made payment of the Casualty Value in respect of such Unit, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to such Unit paid by the Lessee. 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.

Section 7. Termination Option. In the event that any Unit shall be or shall become obsolete or surplus to the requirements of the Lessee, the Lessee may at its option, upon not less than 90 days' prior written notice to the Lessor, terminate this Lease with respect to such Unit; provided, however, that this Lease shall not terminate pursuant to the preceding provision of this Section 7 on any

date on which an Event of Default shall have occurred or be continuing. During the period from the giving of such notice of termination until the effective date of termination, the Lessee shall use its best efforts to obtain bids for the purchase of such Unit. The Lessee shall certify to the Lessor in writing at the time the Lessee receives each bid, the amount of each bid received by the Lessee and the name and address of the party (who may not be the Lessee or any person, firm or corporation affiliated with the Lessee or the Guarantor) submitting such bid. On the termination date the Lessor shall sell such Unit for cash to the bidder named in the highest bid certified by the Lessee to the Lessor, or otherwise obtained by the Lessor, against receipt of cash in the amount of such bid and the amount of any payment from the Lessee required by the next sentence of this Section 7, and transfer to the purchaser all of its right, title and interest in and to such Unit on an "as-is-where-is" basis free and clear of all claims, liens, security interests and other encumbrances of the Lessor or of anyone claiming through the Lessor. If the net aggregate sale price (after deducting all reasonable out-of-pocket expenses incurred by the Lessor in connection with such sale) of such Unit realized at such sale shall be less than the aggregate Termination Value (as hereinafter defined) of such Unit computed as of such date of sale, the Lessor shall retain the entire net sale price and the Lessee shall pay to the Lessor in cash the excess of such Termination Value over such net sale price. The Termination Value of such Unit as of the date on which this Lease is to terminate as to such Unit as aforesaid shall be an amount equal to that percentage of the Rental Basis of such Unit as is set forth in Schedule C hereto opposite such date. If the net sale price of such Unit computed as of such termination date exceeds the Termination Value of such Unit, the amount of such excess shall be retained by the Lessor.

The Lessor may, but shall be under no obligation to, solicit bids, inquire into the efforts of the Lessee to obtain bids or otherwise take any action in connection with any such sale.

Upon payment of (a) such Termination Value, (b) the rental payment, if any, due and payable on such date and (c) the amount payable by the Lessee pursuant to Section 16 hereof as indemnification for the loss by the Lessor of certain tax benefits, this Lease shall terminate with respect to such Unit and no further rents shall be payable for or in respect thereof.

SECTION 8. Right of Inspection; Annual Reports.

The Lessor shall have the right at its sole cost, risk and expense, by its authorized representatives, 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.

The Lessee will furnish or cause to be furnished to the Lessor (i) within 120 days after the close of the fiscal years of each of the Lessee and the Guarantor, (x) the balance sheet of the Lessee as of the close of such fiscal year, together with the related statements of income and retained earnings for such fiscal year, all in reasonable detail and certified by a Vice President or the Treasurer of the Lessee, and (y) the consolidated balance sheet of the Guarantor and its subsidiaries as of the close of such fiscal year, together with the consolidated statements of income and retained earnings for such fiscal year, all in reasonable detail, prepared in accordance with generally accepted accounting principles and certified by a recognized national firm of independent public accountants, including accompanying notes, (ii) within 120 days after the close of the fiscal years of each of the Lessee and the Guarantor, a certificate of the Lessee and the Guarantor, as the case may be, signed by a principal financial officer or a Vice President of each, to the effect that the signer has reviewed the relevant terms of this Lease and the Guaranty Agreement, as the case may be, and has made, or caused to be made under his supervision, a review of the transactions and condition of the Lessee or the Guarantor, as the case may be, during the preceding fiscal year, and that such review has not disclosed the existence during such period, nor does the signer have knowledge of the existence, as at the date of such certificate, of any condition or event which constitutes a default, an Event of Default (as hereinafter defined) or which, after notice or lapse of time or both, would constitute an Event of Default or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action the Lessee or the Guarantor, as the case may be, has taken or is taking or proposes to take with respect thereto and (iii) from time to time such other information as the Lessor may reasonably request.

Section 9. Disclaimer of Warranties; Compliance with Laws and Rules; 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, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE, OR OTHERWISE, 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 Lease with respect to any of the Units 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 General Electric under the Purchase Agreement; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Unit or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation, or performance of any Unit or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Unit. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that all Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters. The execution of the Certificate of Acceptance will in no way relieve or decrease the responsibility or liability of the manufacturer or vendor of any Unit for any warranties it has made with respect to the same.

The Lessee agrees, for the benefit of the Lessor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving any of the Units may extend, and with all lawful rules of any executive, administrative or

judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the Lessor's title to the Units, or Lessee's operation or use of the Units, and in the event that, prior to the expiration of this Lease or any renewal thereof, such laws or rules require any alteration, replacement, addition or modification of or to any part of any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the advance opinion of the Lessor, adversely affect the property or rights of the Lessor under this Lease. The Lessee, at its own cost and expense, may furnish additions, modifications and improvements to the Units during the term of this Lease provided that such additions, modifications and improvements are readily removable without causing material damage to the Units. The additions, modifications and improvements made by the Lessee under the first sentence of this paragraph shall be owned by the Lessor, and the additions, modifications and improvements made by the Lessee under the second sentence of this paragraph shall be owned by the Lessee.

The Lessee agrees to indemnify, protect and hold harmless the Lessor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, reasonable counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as a result of (i) the entering into or the performance of the Purchase Agreement or this Lease, or any of the instruments or agreements referred to therein or herein or contemplated thereby or hereby, (ii) the ownership of any unit of Equipment or any Unit, (iii) the ordering, acquisition, use, operation, condition, reconstruction, purchase, delivery, rejection, storage or return of any unit of Equipment or any Unit, (iv) any accident in connection with the operation, use, condition, reconstruction, possession, storage or return of any Unit, resulting in damage to property or injury or death to any person, except as otherwise provided in Section 14 of this Lease. The foregoing indemnification provision shall not apply to any failure of payment of any of the principal or interest payable with respect to the Purchase Price (as defined in the Purchase Agreement) of the units of Equipment under the Purchase Agreement.

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 as provided in Section 5 hereof) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor of the Units or the leasing thereof to the Lessee, except for filings by the Lessor necessary to perfect its security interest therein with respect to which the Lessee agrees to cooperate.

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

A. default shall be made in the payment of any amount provided for in Sections 2, 6 or 13 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 any interest therein, or of the right to possession of any Unit;

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 and such default shall continue for 30 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied;

D. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee or the Guarantor or any proceedings shall be commenced by or against the Lessee or the Guarantor under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective within 30 days thereafter;

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

(a) proceed by appropriate court action or actions,

either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease as to all of the Units or only as to the Unit or Units with respect to which an Event of Default shall have occurred, whereupon all rights of the Lessee to the use of such Units shall absolutely cease and terminate as though this Lease had never been made as to such Units, but the Lessee shall remain liable as herein 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, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Units for any purpose whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; 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 (i) as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each such Unit, equal to the excess of 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 each such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, 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; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or

next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time and (ii) an amount which, after deduction of all taxes required to be paid by the Lessor and in respect of the receipt thereof under the laws of any Federal, state or local government or taxing authority of the United States of America or under the laws of any taxing authority, shall, in the reasonable opinion of the Lessor, cause the Lessor's net after-tax annual cash flow and net after-tax annual rate of return to be the same as such net after-tax annual cash flow and net after-tax annual rate of return would have been had the Lessee not defaulted hereunder.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

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

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

Section 11. Return of Units upon Default. If this Lease shall terminate pursuant to Section 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally

delivered to the Lessee, reasonable wear and tear for the use in a steel mill (to the extent so used) excepted. 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 of the Lessee or its affiliates as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) cause the same to be transported to any place on the lines of any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep any Unit or Units delivered pursuant to this Section 11 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 or Units, 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.

All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 11,

the Lessee hereby irrevocably appoints the Lessor as the agent and attorney-in-fact 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 whosoever shall be in possession of such Unit at the time.

Section 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.

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

Subject to the terms of this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it or any affiliate, including the rental or sublease thereof to any affiliate, solely upon the property of the Lessee or any such affiliate in connection with the activities of such affiliates, but only upon and subject to all the terms and conditions of this Lease, including the last paragraph of this Section 12; provided, however, that no such use, rental or sublease shall in any way relieve the Lessee of any of its obligations hereunder.

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

The Lessee agrees that during the term of this Lease, it will not assign any Unit to service involving the regular operation and maintenance thereof outside the United States of America.

Section 13. Renewal Option; Purchase Option. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may elect, by written notice delivered to the Lessor not less than 120 days prior to the end of the original term of this Lease, to extend the term of this Lease in respect of any Unit covered by this Lease for such additional rental period or periods as to which the Lessor and the Lessee may mutually agree, at a rental payable in an amount equal to the "Fair Market Rental" of such Units as of the commencement of such extended term.

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

Provided that the Lessee is not in default, the Lessee shall have the right to purchase any Unit then leased hereunder at the expiration of the original term or of any renewal term pursuant to this Section 13 at a price equal to the Fair Market Value (as hereinafter defined) of such Unit. The Lessee shall give the Lessor written notice 120 days prior to the end of the term of its election to exercise the

purchase option provided for in this Section 13. Payment of the option price shall be made at the place of payment specified in Section 2 hereof in immediately available funds against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Unit or Units and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Unit or Units or any other matters.

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

Notwithstanding any election of the Lessee to purchase as provided in this Section 13, the provisions of Section 6 hereof shall continue in full force and effect until the date of purchase and the passage of ownership of the Units purchased by the Lessee upon such date unless the purchase price has been agreed upon by the parties pursuant to this Section 13, in which event the amount payable under Section 6 hereof shall be the greater of the amount otherwise payable under said Section 6 or such purchase price.

If on or before three months prior to the expiration of any term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental or the Fair Market Value, as the case may be, of the Units, each value shall be determined in accordance with the foregoing definitions, respectively, by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers so appointed shall within 35 business

days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine such value of the Units within 30 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of such value of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as such value. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. Except as otherwise expressly provided herein, the provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and/or Fair Market Value, as the case may be, and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. If a single appraiser shall be appointed pursuant to the foregoing provisions of this sixth paragraph of this Section 13, the parties shall each pay 50% of the cost of the appraisal procedure; and if each party shall appoint an appraiser, each party shall pay the cost of the appraiser appointed by it and 50% of the cost of the third appraiser and of any other cost of the appraisal procedure.

Section 14. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the original or any extended Term of Lease with respect to any Unit but in any event not later than 90 days after such expiration, 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 storage tracks of the Lessee or any of its affiliates 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 and cause the same to be transported, at any time within such three-month

period, to any connecting carrier within any State of the United States of America or within the District of Columbia in which such Unit is located for shipment, all as directed by the Lessor, the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any 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. Each Unit returned to the Lessor pursuant to this Section 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear for the use in a steel mill (to the extent so used) excepted and (ii) have removed therefrom by the Lessee without cost or expense to the Lessor all additions, modifications and improvements which the Lessee owns pursuant to Section 9 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and cause the transportation of the Units.

All amounts earned in respect of any Unit after the end of the Term of Lease with respect to such Unit shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

Section 15. Representations and Warranties;
Opinion of Counsel. The Lessee represents and warrants for the benefit of the Lessor that:

(i) the Lessee and the Guarantor are corporations duly organized and validly existing in good standing under the laws of their states of incorporation and are duly qualified and authorized to do business wherever necessary to perform their obligations under this Lease and the Guaranty Agreement, as the case may be;

(ii) the Lessee and the Guarantor have the full power, authority and legal right to enter into and

perform their obligations under this Lease and the Guaranty Agreement, as the case may be;

(iii) neither the Lessee nor the Guarantor is a party to any agreement or instrument or subject to any charter or other corporate restriction which will materially adversely affect its financial condition, business or operations or the ability of the Lessee or the Guarantor to perform its obligations under this Lease or the Guaranty Agreement, as the case may be;

(iv) neither the execution and delivery of this Lease or the Guaranty Agreement nor the consummation of the transactions herein or therein contemplated or the fulfillment of, or compliance with, the terms and provisions hereof and thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court or governmental instrumentality, or of the corporate charter (as amended) or the by-laws (as amended) of the Lessee or the Guarantor or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Lessee or the Guarantor is now a party or by which it may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder;

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

(vi) no authorization or approval is required from any governmental or public body with respect to the entering into or performance by the Lessee of this Lease or by the Guarantor of the Guaranty Agreement;

(vii) this Lease and the Guaranty Agreement have been duly authorized, executed and delivered by the Lessee and the Guarantor, as the case may be, and, assuming due authorization, execution and delivery thereof by the other parties thereto, are legal, valid and binding

agreements, enforceable in accordance with their terms; subject as to the enforcement of remedies to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally;

(viii) no adverse change has occurred in the financial condition of the Lessee since December 31, 1975;

(ix) the transactions contemplated by this Lease will raise no presumption of fraud as against and will be effective against all creditors of the Lessee under applicable state and Federal laws, including, without limitation, laws relating to fraudulent conveyances or bulk transfers; and

(x) the Units shall be used and operated by the Lessee or its affiliates upon the property of the Lessee or the property of its affiliates in connection with the activities of its affiliates and that the Lessee or its affiliates shall not use or operate the Units on any other property or in connection with any other activities.

Simultaneously with the execution and delivery of this Lease the Lessee will deliver to the Lessor counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor, in scope and substance satisfactory to the Lessor and its counsel, to the effect set forth in clauses (i), (ii), (iv), (v), (vi), (vii) and (ix).

Section 16. Federal Income Taxes. This Lease has been entered into on the assumptions that (A) the Lessor, as the owner of the Units, will be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), to the owner of property, including, without limitation (1) the maximum depreciation deduction with respect to the Units authorized under Section 167 of the Code (a) utilizing a 10-year depreciable life, (b) employing initially the 200% declining balance method of depreciation with a change, not requiring the consent of the Commissioner of Internal Revenue, to the method of depreciation most beneficial to the Lessor, (c) including in the Basis of each of the Units the entire Purchase Price thereof (herein called the Basis), (d) taking into account a salvage value, after the reduction allowed by Section 167(f) of the Code, of 10% of the Purchase Price of the Units, and

(e) calculated on the assumption that each Unit is first placed in service by the Lessor during 1976 (hereinafter called the Depreciation Deduction); and (2) the 10% investment credit with respect to 100% of the Basis of the Units, pursuant to Section 38 and related sections of the Code, such investment credit to be available to the Lessor for the year 1976 (hereinafter called the Investment Credit); and (B) all items of income, deduction and credit with respect to this Lease will be treated as attributable to sources within the United States.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the assumptions set forth in the first paragraph of this Section 16. The Lessee agrees to (A) make available for inspection and copying by the Lessor such records as the Lessor shall reasonably request to enable the Lessor to determine whether it is entitled to the full benefit of the Depreciation Deduction and the Investment Credit with respect to the Units, and (B) keep and make available for inspection and copying by the Lessor such records as will enable the Lessor to determine whether it is entitled to treat all items of income, deduction and credit with respect to this Lease as attributable to sources within the United States.

The Lessee represents and warrants that (i) all the Units constitute property the entire Basis of which qualifies for the 10% Investment Credit under Section 46 of the Code; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code, and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; (iii) at all times during the Term of Lease, each Unit then subject to this Lease will constitute "section 38 property" within the meaning of Section 48(a) of the Code, ^{SH} as amended and (iv) none of the Units will be "used predominantly outside the United States" within the meaning of Section 48(a)(2) of the Code.

If (A) for any reason whatsoever (other than for the reasons set forth below) all or any part of the Depre-

ciation Deduction or the Investment Credit with respect to any Unit shall be unavailable in computing each of the items of income, gain, loss, deduction or credit of the Lessor, or (B) the Lessor shall not be entitled to treat all items of income, deduction and credit with respect to this Lease as attributable to sources within the United States for any taxable year (or portion thereof) during which this Lease is in effect as the result of the location of any Unit outside the United States, then the rental applicable to such Unit set forth in Section 2 shall, on the next succeeding rental payment date after written notice to the Lessee by the Lessor of such fact, be increased by such amount as shall be required, in the reasonable opinion of the Lessor, to cause the Lessor's net after-tax annual cash flow and net after-tax rate of return to be the same as such net after-tax annual cash flow and net after-tax rate of return would have been had the Depreciation Deduction and the Investment Credit been wholly available and had the Lessor been entitled to treat all items of income, deduction and credit with respect to this Lease as attributable to sources within the United States; provided, however, that such rental shall not be so increased to the extent that the Depreciation Deduction or the Investment Credit with respect to such Unit is unavailable as a direct result of the occurrence of any of the following events:

(i) a ~~XXXXXXXXXX~~ transfer (other than a transfer pursuant to the terms of Section 6 or Section 7 hereof) by the Lessor of legal title to such Unit, a ~~XXXXXXXXXX~~ disposition by the Lessor of any interest in such Unit or a ~~XXXXXXXXXX~~ reduction by the Lessor of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;

(ii) the failure of the Lessor to claim the Investment Credit or the Depreciation Deduction, or to make a timely election in connection therewith, on its income tax return for the appropriate year, unless the Lessor shall have received an opinion of independent tax counsel to the effect that the Lessor is not entitled to claim the Depreciation Deduction or the Investment Credit, as applicable; or

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

In the event a claim shall be made against the Lessor which, if successful, would result in payment by the Lessee of increased rental pursuant to the preceding paragraph, and if, in the opinion of the Lessor's or the Lessee's tax counsel (hereinafter called Counsel), a bona fide defense to such claim exists, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such defense; provided, however, that the Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses that may be entailed therein. The Lessor may, ~~XXXXXXXXXXXX~~, take such action prior to making payment of any tax, interest or penalty with respect to such claim (hereinafter called a Tax Payment) or may make such Tax Payment and then sue for a refund. If the Lessor takes such action prior to making such Tax Payment, such increased rental need not be paid by the Lessee while such action is pending. In such case, if the final determination shall be adverse to the Lessor, the increased rental shall be computed by the Lessor as of the date of such final determination and the Lessee shall commence payment thereof on the rental payment date next succeeding such final determination and, on or before such rental payment date, the Lessee shall pay to the Lessor as additional rental an amount which, when reduced by any increase in the Lessor's income tax liability or liabilities resulting from the Lessor's receipt of such additional rental, will equal the amount of all interest and penalty paid by the Lessor in respect of such final determination. If the Lessor makes such Tax Payment and then sues for a refund, such increased rental shall commence to be payable by the Lessee on the first rental payment date after such Tax Payment is made and, on or before such rental payment date, the Lessee shall pay to the Lessor as additional rental an amount which, when reduced by the increase in the Lessor's income tax liability or liabilities resulting from the Lessor's receipt of such additional rental (after taking into account any available deductions with respect thereto), will equal the amount of all interest and penalty paid by the Lessor included in such Tax Payment. In such case, if the final determination shall be in favor of the Lessor, (A) the rental payable by the Lessee to the Lessor shall be adjusted by such amount as shall be required, in the reasonable opinion of the Lessor, and pursuant to the assumptions set forth in the immediately preceding paragraph, to cause the Lessor's net after-tax annual cash flow and net

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(after taking
into account
any availa-
ble deduc-
tions with
respect there-
to)

after-tax rate of return to be the same as such net after-tax annual cash flow and net after-tax rate of return would have been if such Tax Payment had not been made (or such adjustment shall be made proportionately if the final determination is partly in favor of and partly adverse to the Lessor) and such adjusted rental shall be payable by the Lessee on the rental payment date next succeeding such final determination and thereafter, and (B) the Lessor shall pay to the Lessee an amount which, when reduced by the tax benefit to the Lessor resulting from the payment of such amount, will equal the amount of any penalty or interest refunded to the Lessor as a result of such final determination and any interest on such refunded penalty and interest paid to the Lessor by the government, promptly upon receipt thereof.

If for any reason whatsoever all or any part of the cost of any improvement and/or addition to a Unit or any expenditure by the Lessee in respect of any Unit or this Lease (hereinafter called Additional Expenditures) made by the Lessee under and pursuant to the terms of this Lease or otherwise is required to be included in the gross income of the Lessor for Federal, state or local income tax purposes at any time prior to the time such Unit is disposed of in a taxable transaction, then the rentals for the Units set forth in Section 2 shall, beginning on the next succeeding rental payment date after the date on which the Lessee is required to furnish written notice to the Lessor pursuant to the following sentence that such inclusion in the Lessor's gross income is required, be increased to such amount or amounts as shall, in the reasonable opinion of the Lessor (after taking into account any present or future tax benefits that the Lessor reasonably anticipates it will derive from its additional investment in the Units by reason of such inclusion, including, without limitation, any current deductions, future depreciation deductions and investment tax credit), cause the Lessor's net after-tax annual cash flow and net after-tax rate of return (calculated on the same basis as used by the Lessor in originally evaluating this transaction) in respect of the Units over the Term of Lease with respect to such Units to be at least the same as such net after-tax annual cash flow and net after-tax rate of return, respectively, would have been if the cost of such Additional Expenditures had not been includible in the Lessor's gross income. The Lessee agrees that, within 30 days after the close of any calendar year (or, in the event the Lessor gives the Lessee written notice that the Lessor's taxable year closes on a date specified therein

other than December 31, within 30 days after said date) in which the Lessee has made Additional Expenditures which are required to be included in the gross income of the Lessor for Federal, state or local income tax purposes prior to the time such Unit is disposed of in a taxable transaction, the Lessee will give written notice thereof to the Lessor describing such Additional Expenditures in reasonable detail.

In the event that the Lessee shall pay all or any portion of any instalment of rental prior to the date upon which such payment is herein required to be made, the Lessee shall pay to the Lessor an amount which, after deduction of all taxes and other charges in respect of the receipt of such amount under the laws of any Federal, state or local governmental or taxing authority in the United States or under the laws of any foreign country or subdivision of any taxing authority thereof, shall be equal to the excess of (A) the taxes and other charges payable by the Lessor as a result of the receipt of such instalment of rental over (B) the taxes and other charges that would have been payable by the Lessor had such instalment of rent been paid by the Lessee on the date upon which such payment is herein required to be made.

In the event the rental rates shall be adjusted as hereinbefore provided, the Casualty Values and Termination Values set forth or referred to in Section 6 and Section 7 hereof, respectively, shall be adjusted accordingly.

For the purposes of this Section 16, the term "Lessor" shall be deemed to include any group filing consolidated tax returns of which the Lessor is a member.

The Lessee's and the Lessor's agreements to pay any sums which may become payable pursuant to this Section 16 shall survive the expiration or other termination of this Lease.

Section 17. Severability. 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.

Section 18. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations when due here-

under shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 10% 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.

Section 19. Notices. Any instruction or notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States mails, first-class postage prepaid, addressed as follows:

if to the Lessor, at

425 California Street,
San Francisco, California 94104,

Attention of Contract Administration,

if to the Lessee, at

Lykes Center, 300 Poydras Street,
New Orleans, Louisiana 70130,

Attention of ~~XXXXXXXXXXXXXXXXXXXX~~ George S. Kimmel
~~XXXXXXXXXXXXXXXXXXXX~~, Vice President - Finance

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

Section 20. Effect and Modification of Lease. 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 officers of the Lessor and the Lessee.

Section 21. Recording. The Lessee will from time to time execute, acknowledge and deliver any and all instruments, documents, assignments, amendments or supplements which in the Lessor's opinion are necessary for the purpose of proper protection, to the satisfaction of counsel for the Lessor, of its title to the Units and its rights under this Lease or for the purpose of carrying out the intention of this Lease. 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 Lessor for the purposes specified in this Section 21.

Section 22. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Lessor shall be deemed to be the original counterpart. It shall not be necessary that any counterpart be signed by both parties so long as each party shall sign at least one counterpart. Although this Lease is dated as of the date first set forth above for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

Section 23. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of California.

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 officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

WELLS FARGO LEASING CORPORATION,

by

[Corporate Seal]

Vice President

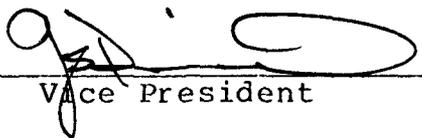
Attest:

Assistant Secretary

L-Y LEASING CORPORATION,

by

[Corporate Seal]



Vice President

Attest:



Attesting Officer

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

On this day of , 1976, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of WELLS FARGO LEASING 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.

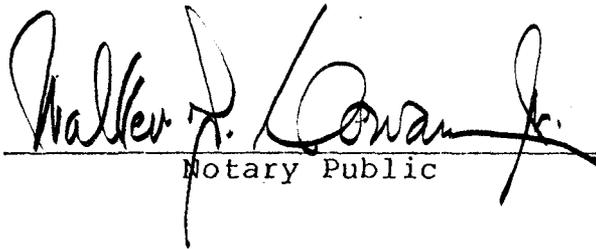
Notary Public

[Notarial Seal]

My Commission expires

STATE OF Louisiana ,)
PARISH) ss.:
COUNTY OF Orleans ,)

On this 21st day of June , 1976, before me personally appeared G.S. Kimmel , to me personally known, who, being by me duly sworn, says that he is a Vice President of L-Y LEASING CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that such instrument was this day 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
at death

SCHEDULE A

<u>Quantity</u>	<u>Description</u>	<u>Serial Numbers</u>	<u>Specifications</u>
4	135-Ton Standard- gauge Locomotives	96430, 96031, 96113 and 98592	General Electric No. 526 per quotation number CLRB: 511-374

SCHEDULE B

Casualty Value Percentages Schedule

<u>From the Due</u> <u>Date for</u> <u>Rental</u> <u>Payment Number:</u>	<u>Until the Due</u> <u>Date for</u> <u>Rental</u> <u>Payment Number:</u>	<u>The Casualty Value</u> <u>as a Percentage of</u> <u>the Rental Basis</u> <u>for Each Unit Is:</u>
1	2	101.99715
2	3	100.93931
3	4	99.82649
4	5	98.65869
5	6	97.43591
6	7	96.15815
7	8	94.82540
8	9	93.43767
9	10	91.99497
10	11	90.49728
11	12	88.94460
12	13	87.33695
13	14	85.67431
14	15	83.95669
15	16	82.18409
16	17	80.35651
17	18	78.47395
18	19	76.53640
19	20	74.54388
20	21	72.49637
21	22	70.39388
22	23	68.23641
23	24	66.02395
24	25	63.75652
25	26	61.43410
26	27	59.05670
27	28	56.62431
28	29	54.13695
29	30	51.59461
30	31	48.99728
31	32	46.34497
32	33	43.63768
33	34	40.87540
34	35	38.05815

<u>From the Due Date for Rental Payment Number:</u>	<u>Until the Due Date for Rental Payment Number:</u>	<u>The Casualty Value as a Percentage of the Rental Basis for Each Unit Is:</u>
35	36	35.18591
36	37	32.25869
37	38	29.27649
38	39	26.23931
39	40	23.14715
40	until end of lease	20.00000

SCHEDULE C

Termination Value Percentage Schedule

From The Due Date for Rental Payment Number:	Until the Due Date for Rental Payment Number:	The Termination Value as a Percentage of the Rental Basis for Each Unit of Equipment Is:
1	2	103.99715
2	3	102.93931
3	4	101.82649
4	5	100.65869
5	6	99.43591
6	7	98.15815
7	8	96.82540
8	9	95.43767
9	10	93.99497
10	11	92.49728
11	12	90.94460
12	13	89.33695
13	14	87.67431
14	15	85.95669
15	16	84.18409
16	17	82.35651
17	18	80.47395
18	19	78.53640
19	20	76.54388
20	21	74.49637
21	22	72.39388
22	23	70.23641
23	24	68.02395
24	25	65.75652
25	26	63.43410
26	27	61.05670
27	28	58.62431
28	29	56.13695
29	30	53.59461
30	31	50.99728
31	32	48.34497
32	33	45.63768
33	34	42.87540
34	35	40.05815

From The Due Date for Rental <u>Payment Number:</u>	Until the Due Date for Rental Payment <u>Number:</u>	<u>The Termination Value as a Percentage of the Rental Basis for Each Unit of Equipment Is:</u>
35	36	37.18591
36	37	34.25869
37	38	31.27649
38	39	28.23931
39	40	25.14715
40	Until end of Lease	22.00000

EXHIBIT A TO LEASE NO. 1

GUARANTY AGREEMENT

Dated as of May 1, 1976

Between

LYKES CORPORATION

and

WELLS FARGO LEASING CORPORATION

GUARANTY AGREEMENT dated as of May 1, 1976, between LYKES CORPORATION (hereinafter called the Guarantor) and WELLS FARGO LEASING CORPORATION (hereinafter called the Lessor).

WHEREAS, pursuant to Leases of Railroad Equipment dated as of the date hereof (hereinafter called the Leases) between the Lessor and L-Y LEASING CORPORATION (hereinafter called the Lessee), the Lessee is willing to lease the units of railroad equipment (hereinafter called the Units) specified in the Leases;

WHEREAS as an inducement to the Lessor to enter into the Leases with the Lessee and to lease the Units to the Lessee, the Guarantor is willing to guarantee as hereinafter provided all obligations and covenants of the Lessee under the Leases;

NOW, THEREFORE, in consideration of the premises and the execution and delivery of the Leases and of other good and valuable consideration and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Guarantor hereby unconditionally guarantees to the Lessor the due and punctual payment by the Lessee of all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in each of the Leases due and to be due under each of the Leases in respect of the Units thereunder, and the due and punctual performance of all obligations of the Lessee under each of the Leases.

The Guarantor unconditionally agrees that, whenever an attorney is used to enforce this Agreement or to enforce or adjudicate any rights or obligations under this Agreement, whether by suit or by any other means whatsoever, and provided that the Lessor is afforded or granted any relief, full or partial, all reasonable costs and fees of such attorney shall be payable by the Guarantor.

2. The Guarantor hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of the Leases or either of them or this Agreement or any conduct of the Lessee and/or the Lessor

which might constitute a legal or equitable discharge of a surety or guarantor and irrespective of any circumstances which might limit the recourse of the Lessor to the Lessee. The Guarantor hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver by the Lessor of any of its rights hereunder or under the Leases or either of them and no action by the Lessor to enforce any of its rights hereunder or under the Leases or either of them or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

No agreement, unless in writing and signed by the Lessor, and no course of dealing between the Lessee and/or the Guarantor and the Lessor shall be effective to change or modify or to discharge in whole or in part this Agreement. No consent or waiver of any rights or powers of the Lessor shall be valid unless in writing and signed by the Lessor.

The Lessor may, with the consent of the Lessee but without notice to the Guarantor, amend the Leases or either of them or renew, extend or modify any of the Lessee's obligations thereunder without affecting the Guarantor's liability hereunder, which shall be total and absolute; provided, however, that no amendment to the Leases or either of them shall increase the liability of the Guarantor hereunder without the written consent of the Guarantor.

The Guarantor waives any right to require that any action be brought against the Lessee or any other person before proceeding against the Guarantor hereunder. This Agreement shall not be limited to any specific time or period so long as the Lessee shall have any obligations whatsoever under either of the Leases. Any final judgment recovered by the Lessor against the Lessee with respect to an obligation of the Lessee under either of the Leases shall be conclusive against the Guarantor in so far as it relates to the payment of money regardless of whether the Guarantor was joined as party to the action. The Lessor shall use best efforts to give reasonable notice to the Guarantor of the institution by it of any proceedings against the Lessee; provided, however, that notwithstanding any failure to give such notice the obligations of the Guarantor hereunder shall not be affected.

3. The Guarantor hereby acknowledges that it has received copies of each of the Leases and is fully aware of all the terms and conditions thereof.

The obligations of the Lessor shall conclusively be presumed to have been created, contracted or incurred in reliance upon, among other things, this Agreement.

4. Each reference herein to the Lessee shall be deemed to include its successors and assigns. Each reference herein to the Lessor shall be deemed to include its successors and assigns. Each reference herein to the Guarantor shall be deemed to include the legal representatives, successors and assigns of the Guarantor, all of whom shall be bound by the provisions of this Agreement.

5. This Agreement shall in all respects be governed by and construed in accordance with the laws of the State of California.

6. The Guarantor hereby submits to the nonexclusive jurisdiction of the courts of the State of Ohio and the Federal courts of the United States of America located in such state solely in respect of the interpretation and enforcement of the provisions hereof and the Leases and hereby waives and agrees not to assert as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of the Leases that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in such courts or that this Agreement or the Leases may not be enforced in or by such courts. The Guarantor agrees that service of process may be made upon it by service upon any affiliate of the Guarantor located in the State of Ohio (or such other person located therein which from time to time may be designated by the Guarantor in writing) in any action, suit or proceeding against the Guarantor with respect to this Agreement and the Leases and hereby irrevocably appoints each such affiliate as its agent upon which process may be served in any action, suit or proceeding, it being understood that such appointment or designation shall become effective without any further action on the part of the Guarantor. Final judgment against the Guarantor in any action, suit or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment, a certified copy of which shall be conclusive evidence of the fact and amount of indebtedness arising from such judgment.

7. Notwithstanding anything contained herein to the contrary, the Guarantor's liability hereunder is

limited to \$2,475,000 exclusive of any costs or fees of attorneys described in the second paragraph of Section 1 hereof.

IN WITNESS WHEREOF, the parties, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals hereunder to be affixed and duly attested, as of the date first above written.

LYKES CORPORATION,

by

[Corporate Seal]

Vice President

Attest:

Assistant Secretary

WELLS FARGO LEASING CORPORATION,

by

[Corporate Seal]

Vice President

Attest:

Assistant Secretary

STATE OF ,)
) ss.:
COUNTY OF)

On this day of 1976, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of WELLS FARGO LEASING CORPORATION, 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