8448-A

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Date AUG 20 1976
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ICC Washington, D. C

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August 20, 1976

8448-C

Dear Sir:

Pursuant to Section 20c of the Interstate Commerce Act and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Louisiana & Arkansas Railway Company for filing and recordation counterparts of the following documents:

1(a) Conditional Sale Agreement (No. 2) dated as of June 15, 1976, between Exchange National Bank of Chicago, as Trustee, and General Motors Corporation (Electro-Motive Division);

(b) Agreement and Assignment (No. 2) dated as of June 15, 1976, between General Motors Corporation (Electro-Motive Division) and American National Bank & Trust Company of Chicago, as Agent;

2(a) Lease of Railroad Equipment (No. 2) dated as of June 15, 1976, between Louisiana & Arkansas Railway Company and Exchange National Bank of Chicago, as Trustee;

(b) Assignment of Lease and Agreement (No. 2) dated as of June 15, 1976, between Exchange National Bank of Chicago, as Trustee, and American National Bank & Trust Company of Chicago, as Agent;

(c) Guaranty Agreement (No. 2) dated as of June 15, 1976, between The Kansas City Southern Railway Company and Exchange National Bank of Chicago, as Trustee.

The names and addresses of the parties to the afore-

mentioned Agreements are as follows:

(1) Agent-Vendor-Assignee:

American National Bank & Trust Company of Chicago
33 North LaSalle Street
Chicago, Illinois 60690

(2) Trustee-Vendee-Lessor:

Exchange National Bank of Chicago
130 South LaSalle Street
Chicago, Illinois 60690

(3) Guarantor:

The Kansas City Southern Railway Company
114 West Eleventh Street
Kansas City, Missouri 64105

(4) Builder:

General Motors Corporation
(Electro-Motive Division)
LaGrange, Illinois 60525

(5) Lessee:

Louisiana & Arkansas Railway Company
114 West Eleventh Street
Kansas City, Missouri 64105

Please file and record the documents referred to in this letter and cross-index them under the names of the Agent-Vendor-Assignee, the Trustee-Vendee-Lessor, the Guarantor, the Builder and the Lessee.

The equipment covered by the aforementioned documents consists of the following:

Seven Diesel-Electric Locomotives, bearing identifying numbers KCS670-KCS676.

There is also enclosed a check for $100 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document) and the Lease of Railroad Equipment, the related

Assignment of Lease and Agreement and the related Guaranty Agreement (together constituting one document) pursuant to 49CFR1116.1.

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain two copies of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

William R. Giusti,
As Agent for Louisiana & Arkansas
Railway Company

Robert L. Oswald, Esq.,
Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

A

Recordation No. 8440-B Filed & Recorded
AUG 30 1976 -1 55 PM
INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

(No. 2)

Dated as of June 15, 1976

between

LOUISIANA & ARKANSAS RAILWAY COMPANY

and

EXCHANGE NATIONAL BANK OF CHICAGO,
as Trustee under a Trust Agreement
dated as of the date hereof with
The Parties Named in Schedule A Thereto

LEASE OF RAILROAD EQUIPMENT (No. 2) dated as of June 15, 1976, between LOUISIANA & ARKANSAS RAILWAY COMPANY, a Delaware corporation (hereinafter called the Lessee), and EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association (hereinafter called the Lessor), acting as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with The Parties Named in Schedule A To The Trust Agreement (said parties being hereinafter called the Beneficiaries).

WHEREAS the Lessor is entering into a Conditional Sale Agreement (No. 2) dated as of the date hereof with General Motors Corporation (Electro-Motive Division), a Delaware corporation (hereinafter called the Builder and said agreement being hereinafter called the Security Documentation), wherein the Builder has agreed to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto (hereinafter called the Equipment);

WHEREAS the Builder is assigning its interest in the Security Documentation to American National Bank & Trust Company of Chicago, a national banking association, acting as agent (hereinafter, together with its successors and assigns, called the Vendor) under a Participation Agreement (No. 2) dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessee, the Lessor, the Guarantor (as hereinafter defined), the Beneficiaries and the investors named in Schedule B to the Participation Agreement (said investors being hereinafter called the Investors);

WHEREAS the Lessee desires to lease such number of units of the Equipment as are delivered and accepted and settled for under the Security Documentation (hereinafter called the Units) at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS The Kansas City Southern Railway Company (herein called the Guarantor) is willing to guarantee the obligations of the Lessee under the Lease pursuant to the Guaranty Agreement (No. 2) dated as of the date hereof (hereinafter called the Guaranty);

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Documentation, or against the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any 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.

§ 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Documentation. The Lessor will cause each Unit to be delivered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Documentation. Upon such delivery, the Lessee will cause an

employee of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and the Lessee shall execute and deliver to the Lessor a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Documentation, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the Security Documentation pursuant to the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such unit to this Lease.

§ 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 31 consecutive payments payable on January 1, 1977, and on each July 1 and January 1 thereafter. The rental payable on January 1, 1977, shall be in an amount equal to (a) the product of (i) .02604167% of the amount paid by the Vendee on the Closing Date (as defined in the Security Documentation) pursuant to subparagraph (A) of the third paragraph of Article 4 of the Security Documentation, times (ii) the number of days between the Closing Date and January 1, 1977 (excluding the Closing Date but including January 1, 1977, in such computation), plus (b) the interest payment due and payable on January 1, 1977, pursuant to Article 4 of the Security Documentation. The next 30 rental payments shall each be in an amount equal to 4.59105% of the Purchase Price of each Unit then subject to this Lease.

In addition to the foregoing rentals, the Lessee hereby agrees to pay to the Lessor amounts equal to the amounts required by the Vendee to make the payments provided for in the penultimate sentence of the third paragraph of Paragraph 2, in the last sentence of the penultimate paragraph and in the last paragraph of Paragraph 9 of the Participation Agreement on the dates required for such payments in said Paragraphs 2 and 9 (without regard to the limitation of the obligation of the Vendee set forth therein) and the Vendee agrees to apply such rentals for such purposes. The rental payments hereinbefore set forth are subject to adjustment pursuant to § 16 hereof.

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 Chicago, Illinois, are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, including, but not limited to, the payments provided for in this § 3 and in § 7 hereof, at the principal office of the Vendor, for the account of the Lessor in care of the Vendor, with instructions to the Vendor first, to apply such payments to satisfy the obligations of the Lessor under the Security Documentation, and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default under the Security Documentation shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in Federal or Chicago funds immediately available to the Vendor by 1:00 p.m., Chicago time, on the date such payment is due.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 9 and 14 hereof) shall survive the expiration of the term of this Lease.

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

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto, or in the case of any Unit not there listed, such road 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-half inch in height, the words "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c", "Owned by a Bank or Trust Company under a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and interest in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the Security Documentation. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Documentation shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to such effect. 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.

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor and each Beneficiary with respect to the amount of any local, state, Federal, or foreign taxes (other than any United States Federal income tax payable by any Beneficiary in consequence of the receipt of payments provided for herein and other than the aggregate of all state or local taxes measured by net income based on such receipts, up to the amount of any such taxes based on such receipts which would be payable to the state and locality in which such Beneficiary has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions) 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 or the Security Documentation, 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 (except as provided above) or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or the interest of the Lessor or the interest of any Beneficiary or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Lessor, adversely affect the title, property or rights of the Lessor or any Beneficiary hereunder or the Vendor under the Security Documentation. The Lessee agrees to give the Lessor notice of such contest within 30 days after institution thereof and the Lessor agrees to provide such information as may be reasonably requested by the Lessee in furtherance of such contest. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor; provided, however, that the Lessor shall have given the Lessee written notice of such imposition prior to such payment.

In the event that the Lessor shall become obligated to make any payment to the Builder or the Vendor or otherwise pursuant to any correlative provision of the Security Documentation (other than the proviso to the third paragraph of Article 12) or any Beneficiary shall become obligated to make payment to the Lessor pursuant to any similar provision with respect to taxes in the Trust Agreement (other than the second paragraph of Section 5.01 thereof), not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor or the Beneficiaries to fulfill completely its obligations pursuant to said provision.

In the event any returns, statements or reports

with respect to impositions are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor, the Beneficiaries and the Vendor in such Units; provided, however, that the Lessor shall, with respect to any state or political subdivision thereof of the United States of America, file required returns, statements, and reports relating to sales or use taxes, and taxes, fees, and charges on or measured by Lessor's earnings or gross receipts arising from the Units, or the value added by the Lessor thereto, and remit the amount thereof and the Lessee shall reimburse the Lessor promptly upon demand for the amount of such taxes, fees and charges except as provided above.

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

To the extent the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Lessor hereby authorizes the Lessee to act in its own name and on its behalf; provided, however, that the Lessee shall indemnify and hold the Lessor harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit the Lessor's compliance with the requirements of taxing jurisdictions.

§ 7. Maintenance; Casualty Occurrences; Insurance. The Lessee agrees that, at its own cost and expense, it will be responsible for ordinary maintenance and repairs required to maintain and keep each Unit which is subject to this Lease in good operating order, repair and condition.

In the event that any Unit shall be or become

worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever (including obsolescence), returned to the Builder pursuant to the patent indemnity provisions of the Security Documentation, or taken or requisitioned by condemnation or otherwise by the United States Government for a period which shall exceed the then remaining term of this Lease, or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in § 14 hereof, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such notice the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule referred to below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the Builder 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. The Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the Builder pursuant to the patent indemnity provisions of the Security Documentation an amount equal to any payment made by the Builder to the Vendor in respect thereof under the Security Documentation.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite such date.

Whenever any Unit shall suffer a Casualty Occurrence after the final payment of rent in respect thereof is due pursuant to § 3 hereof and before such Unit shall have been returned in the manner provided in § 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 Purchase Price 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.

In the event of the requisition (other than a requisition which constitutes a Casualty Occurrence) for use by the United States Government (hereinafter called the Government) of any Unit during the term of this Lease or any renewal thereof all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease or any renewal thereof, but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the term of this Lease or any renewal thereof, shall be paid over to, or retained by, the Lessor.

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

The Lessee will, at all times prior to the return of the Equipment to the Lessor, at its own expense, cause to be carried and maintained property insurance and public liability insurance in respect of the Units at the time subject hereto, in amounts and against risks customarily insured against by railroad companies in respect of similar equipment, and, in any event, comparable in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it. 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 a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

§ 8. Reports. On or before April 30 in each year, commencing with the calendar year 1977, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Documentation, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the Security Documentation have been preserved or replaced. The Lessor, at its sole cost and expense, shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE LESSOR MAKES NO WAR-

RANTY 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 AS TO THE LESSEE'S RIGHT TO QUIET ENJOYMENT THEREOF (EXCEPT AS TO ACTS OF THE LESSOR OR THE BENEFICIARIES), 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 this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of Items 3 and 4 of Annex A of the Security Documentation; 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 Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units 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 Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, 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 the Units may extend and with all lawful rules of the Department of Transportation,

the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that, 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 on 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 opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Documentation. The Lessee, at its own cost and expense, may furnish other 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 preceding sentence shall be owned by the Lessee.

The Lessee agrees to indemnify, protect and hold harmless the Lessor and the Vendor from and against all losses, damages, injuries, liabilities, claims (including without limitation claims for strict liability in tort) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of a default, an event of default or an Event of Default under the Security Documentation, the Participation Agreement, this Lease, or any sublease entered into pursuant to Section 12 hereunder, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in § 14 of this Lease or the transfer of title to the Equipment by the Vendor pursuant to any provision of the Security Documentation; provided, however, the foregoing indemnification shall not apply to any failure to pay the principal of or interest on the Conditional Sale Indebtedness (as defined in the Security Documentation) or constitute a

guaranty of the residual value of the Units. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the expiration or termination of the term of this Lease.

The Lessee shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of any or all of the Units of Equipment.

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 tax returns) to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

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

A. default shall be made in payment of any amount provided for in §§ 3, 7 or 13 hereof, and such default shall continue for five business days;

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

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement, and such default shall continue for 30 days after written notice from the Lessor or the Vendor 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 and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as

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

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

F. an event of default set forth in Article 15 of the Security Documentation shall have occurred arising out of any default by the Lessee in performing any of its obligations hereunder; or

G. default shall be made in the observance or performance of any of the covenants, conditions or agreements on the part of the Guarantor contained in the Guaranty;

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, if the Event of Default is with respect to the Lessee, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax losses of federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents, subject to compliance with all mandatory requirements of law, 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 the Units for any purposes 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 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 Unit, equal to (A) 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 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 6% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated plus (B) an amount which, after deduction of all taxes required to be paid by the Lessor 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 or governmental subdivision of a foreign country, shall, in the reasonable opinion of the Lessor, be equal to all or such portion of the Investment Credit (as defined in § 16 hereof) lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor and/or the Beneficiaries as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 16 or any other provision of this Lease or the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default, plus such sum as shall cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the ADR Deduction and the Interest Deduction (as such deductions are defined in § 16 hereof) which was lost, not claimed, not available for claim or disallowed or recaptured in respect of a Unit as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 16 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to the Lessor by the Lessee, the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessee or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default plus such sum as will pay or reimburse the Lessor for any interest, penalties or additions to tax incurred in connection with such loss, failure to claim, inability to claim, disallowance or recapture; 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; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (B) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

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 may be exercised concurrently or consecutively, 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 such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

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

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall

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

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. 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. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the .025506% of the Purchase Price of such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

Without in any way limiting the obligation of

the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder shall inure to the benefit of the Lessor's assigns.

So long as the Lessee shall not be in default under this Lease and no event of default shall exist under the Security Documentation, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. Any purported assignment or sublease in violation of this Section 12 shall be void and of no force and effect. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises. 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 permited by the provisions of the immediately succeeding paragraph.

So long as the Lessee shall not be in default under this Lease and no event of default shall exist under the Security Documentation, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of rail-

road over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, or a written sublease for a term not exceeding one year to a railroad classified by the Interstate Commerce Commission as a Class I or Class II railroad, but only upon and subject to all the terms and conditions of this Lease and the Security Documentation; provided, however, that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units. The Lessee represents and warrants to the Lessor that the Units will be used, and are intended for use, in connection with interstate commerce.

Nothing in this § 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 railroad 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 and under the Participation Agreement) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

§ 13. Renewal Option; Right of First Refusal. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than six months prior to the end of the original term or any extended term of this Lease, as the case may be, elect to extend the term of this Lease in respect of all but not fewer than all of the Units then covered by this Lease, for three additional two-year periods commencing on the scheduled expiration of the original term or any extended term of this Lease, as the case may be, provided that no such extended term extends beyond January 1, 1998, at a "Fair Market Rental" payable in semiannual payments on January 1 and July 1 in each year of such extended term.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by 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 the Fair Market Rental of the Units subject to the proposed extended term within 90 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 Fair Market Rental 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 the Fair Market Rental. 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. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental 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. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Lessor.

The Lessor agrees that (provided no default hereunder shall have occurred and be continuing) it will not sell such Units, or any of them, after the termination of this Lease and any renewals thereof, unless the Lessor shall have given the Lessee at least 30 business days' prior written notice of such sale, specifying the sale price and terms of such sale, and the Lessee shall have had the opportunity to purchase such Unit or Units at the same price and on the same terms as specified in such notice. The foregoing right of the Lessee shall be exercisable only once and shall expire two years after the termination of this Lease and all renewals thereof.

Upon payment of the purchase price of any Unit, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without warranties) for such Unit such as will transfer to the Lessee such title to such Unit as the Lessor derived from the Vendor, free and clear of all liens, security interests and other encumbrances arising through the Lessor.

§ 14. Return of Units upon Expiration of Term. The Lessor intends to retain the Units for re-lease at the expiration of the term of this Lease. As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit, 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 as the Lessor may 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 six months and transport the same, at any time within such six-month period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee; and in the event that any Unit shall suffer a Casualty Occurrence during such storage period, the Lessee shall pay the Lessor the Casualty Value thereof set forth in Schedule B hereto. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representa-

tive or representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, lessee or user, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and (ii) meet the standards then in effect under the applicable rules of any governmental agency or other organization with jurisdiction. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. 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. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which .025506% of the Purchase Price of such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the Guaranty, the Security Documentation and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the Security Documentation and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Documentation and the assignment thereof to the

Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease, the Guaranty and the Security Documentation shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 16 (a). Federal Income Taxes. This Lease and the Security Documentation have been entered into on the assumptions that (A) the Beneficiaries, as the beneficial owners 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 an owner of property, including, without limitation (1) the maximum depreciation deduction with respect to the Units authorized under Section 167 of the Code (hereinafter called the "ADR Deduction"), (a) utilizing a 12-year depreciable life, which is the lower limit listed in Revenue Procedure 72-10, 1972-1 C.B. 721, for property in Asset Guideline Class No. 00.25, in accordance with the Class Life Asset Depreciation Range System described in Section 167(m) of the Code and the Treasury Regulations promulgated thereunder as in effect on the date hereof, (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 sum of the years-digits method of depreciation when most beneficial to the Lessor, (c) utilizing the modified half-year convention as provided in Reg. Sec. 1.167(a)-11(c)(2)(ii), and (d) including in the basis of the Units the entire Purchase Price thereof and all other items properly includible under Section 1012 of the Code (hereinafter called the "Basis"); (2) deductions with respect to interest payable under the Security Documentation pursuant to Section 163 of the Code (hereinafter called the "Interest Deduction"); (3) the 10% investment credit with respect to 100% of the Basis of the Units (hereinafter called the "Investment Credit"), pursuant to Section 38 and related sections of the Code; and (4) the Trust Agreement creates an organization which will be deemed by the Internal Revenue Service to be a partnership for Federal income tax purposes; and (B) all amounts includible in gross income by the Lessor or the Beneficiaries with respect to this Lease will be treated as income from 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 foregoing or which would increase the amount of rentals required to be taken into income by the Lessor or the Beneficiaries over the amount specified to be payable under this Lease on the dates due hereunder except as specifically provided in this Lease, and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof. The Lessee agrees to keep and make available for inspection and copying upon demand by the Lessor such records as will enable the Beneficiaries to determine whether they are entitled (A) to the full benefit of the ADR Deduction, the Interest Deduction and the Investment Credit with respect to the Units, and (B) to treat amounts includible in gross income with respect to this Lease as income from 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 50 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 this Lease, each Unit will constitute "section 38 property" within the meaning of Section 48(a) of the Code; (iv) none of the Units will be "used predominantly outside the United States" within the meaning of Section 48(a)(2) of the Code; and (v) all items includible in gross income by the Lessor or the Beneficiaries and all deductions allowable to the Lessor or the Beneficiaries with respect to the Units and this Lease will be treated as derived from, or allocable to, sources within the United States.

If (a) for any reason (except as a direct or indirect result of the occurrence of any Excluded Event set forth below) prior to the Lessor's obtaining a favorable ruling (herein called the Ruling) from the Internal Revenue

Service as to the Beneficiaries being the owner of the Units and as to their right to claim the Investment Credit, the ADR Deduction and the Interest Deduction, the Beneficiaries shall not have, or shall lose the right to claim, or shall suffer a disallowance of or shall be required to recapture (any such event being hereinafter called a Loss), all or any portion of the Investment Credit, the ADR Deduction, or the Interest Deduction (hereinafter each called a Benefit) with respect to all or part of any Unit or (b) subsequent to the receipt of the Ruling, the Beneficiaries shall incur a Loss with respect to any Unit due to (x) the inaccuracy of any statement in any letter or document furnished to the Lessor or the Beneficiaries by the Lessee (or any officer, agent or employee thereof or of any affiliated company thereof) in connection with the application for the Ruling, (y) the noncompliance by the Lessee with any provision of the second paragraph of this § 16 or (z) the use of any Unit by the Lessee in a manner inconsistent with the Beneficiaries' claim to the Investment Credit and the ADR Deduction, then in any such case the rental rate applicable to such Unit set forth in § 3 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Benefit cannot be claimed by the Beneficiaries, or (if claimed and then disallowed or required to be recaptured) on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit as, in the reasonable opinion of the Beneficiaries, will cause the net return of each of the Beneficiaries in respect of such Unit under this Lease to equal the net return (computed on the same assumptions as utilized by the Beneficiaries in originally evaluating this transaction) in respect of such Unit under this Lease that would have been available if such Beneficiary had been entitled to utilization of all of the Benefits, and the Lessee shall forthwith pay to the Lessor as additional rental the amount of any interest or penalty which may be assessed by the United States against the Beneficiaries attributable to the disallowance, recapture or loss of all or any portion of the Benefit; provided, however, that such rental rate shall not be so increased and such additional rental will not be paid to the extent that such Beneficiary shall have lost, or shall not have, or shall have lost the right to claim, or shall have suffered a disallowance of, or shall have been required to recapture all or any portion of any Benefit with respect to all or part of such Unit as a direct or indirect result of the occurrence of any of the following events (hereinafter called

Excluded Events):

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

(ii) a voluntary transfer or other voluntary disposition by the Beneficiaries of any interest in such Unit or the voluntary reduction by the Beneficiaries of their interest in the rentals from such Unit under the Lease (other than pursuant to the assignment of this Lease to the Vendor), unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the failure of the Beneficiaries to claim in a timely manner the Investment Credit, the ADR Deduction or the Interest Deduction; or

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

In the event the rental rates shall be increased as hereinbefore provided, the Casualty Values set forth in § 7 hereof and the damages and amounts set forth in subparagraph (b) of § 10 hereof shall be increased accordingly.

The Lessor agrees that it will (upon preparation by and at the direction of the Beneficiaries), at the sole expense of the Lessee, apply for and diligently seek the Ruling. The Lessee will join in any request for such Ruling, and will furnish such documents, records and representations (including, but not limited to, evidence of the useful life and residual value of the Units sufficient to support the matters claimed in such request) as shall be deemed necessary and appropriate for such request by the Lessor.

§ 16 (b). Rental Adjustment For Lessee's Capital Expenditures. In the event and to the extent that 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 any Beneficiary for Federal 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 § 3 hereof shall, on the next succeeding rental payment date after the date on which the Lessee is required to furnish written notice thereof to the Lessor pursuant to the last paragraph of this subsection (b) after said inclusion in any Beneficiary's gross income is required, be increased to such amount or amounts as shall, in the reasonable opinion of such Beneficiary, after taking into account any present or future tax benefits that such Beneficiary reasonably anticipates it will derive from its additional investment in the Units by reason of said inclusion (including without limitation any current deductions, future depreciation deductions and investment tax credit), cause such Beneficiary's net return (calculated on the same basis as used by such Beneficiary in originally evaluating this transaction) to equal the net return that would have been realized by such Beneficiary if the cost of such Additional Expenditures had not been includible in the Lessor's or such Beneficiary's gross income.

In determining the present or future tax benefits to be taken into account by such Beneficiary in establishing the rental increase required hereby, such Beneficiary shall attempt to maximize such benefits and hence minimize the increase in rents by making such elections (including where advantageous the applicable asset guideline repair allowance and accelerated depreciation, if then permitted) and utilizing such conventions and accounting methods as will further such objectives; provided, however, that the Lessor and such Beneficiary shall not be required to make any election or utilize a particular convention or accounting method if such Beneficiary determines, in its sole discretion but in good faith, that in so doing it will adversely affect its Federal income tax liability determined without regard to this transaction.

For purposes of this subsection the cost of Additional Expenditures made by the Lessee shall be deemed to be "required to be included in the gross income of a Beneficiary for Federal income tax purposes" if such inclusion is required by (i) any private ruling letter issued to the Lessor or such Beneficiary by the Internal Revenue Service that has not been revoked or otherwise rendered inapplicable at the time the cost of said Additional Expenditures is incurred; (ii) any provision of the Code or the applicable regulations thereunder; or (iii) any published revenue ruling

of the Internal Revenue Service which has not been held invalid by a court having ultimate appellate jurisdiction over the Federal income tax liability of such Beneficiary.

The Lessor agrees that it will, upon the written request and at the sole expense of the Lessee (A) seek a modification of any private ruling letter described in (i) of the preceding paragraph to eliminate the requirement that the cost of Additional Expenditures be included in any Beneficiary's gross income and (B) contest the inclusion of the cost of Additional Expenditures in any Beneficiary's gross income if such inclusion is required pursuant to (ii) or (iii) of the preceding paragraph in such forum as it, in its sole judgment but with due regard to the Lessee's advice, shall select; provided, however, that the Lessor shall not be required to contest such inclusion unless it has received an opinion from independent counsel selected by the Lessee and acceptable to the Lessor that there is a reasonable basis for contesting such inclusion and the Lessee has advanced to the Lessor such sums as the Lessor may reasonably deem necessary to pay the costs of such contest.

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 any Beneficiary for Federal 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 and such Beneficiary describing such Additional Expenditures in reasonable detail and specifying the cost thereof with respect to each Unit.

§ 17. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 10-3/8% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be

deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at 130 South LaSalle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department; and

(b) if to the Lessee, at 114 West Eleventh Street, Kansas City, Missouri 64105;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at at 33 North LaSalle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department.

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

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

§ 20. Immunities; Satisfaction of Undertakings. It is expressly understood and agreed by and between the parties hereto, anything in this Lease to the contrary notwithstanding, that each and all of the representations, undertakings and agreements in this Lease made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by Exchange National Bank of Chicago or for the purpose or with the intention of binding the said bank personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly con-

ferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank or any Beneficiary (except as provided in the Trust Agreement) or on account of any representation, undertaking or agreement of the Lessor, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee; provided, however, that the Lessee or any person claiming by, through or under the Lessee, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

§ 21. 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 Vendor pursuant to the Assignment hereof to the Vendor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

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

LOUISIANA & ARKANSAS RAILWAY COMPANY,

by M J McClain
Vice President

[Corporate Seal]

Attest:

Geraldine D Dallins
ASSISTANT Secretary

EXCHANGE NATIONAL BANK OF CHICAGO,
as Trustee as aforesaid,

by

Vice President

[Corporate Seal]

Attest:

Assistant Trust Officer

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

On this 13th day of August 1976, before me personally appeared M. J. McClain, to me personally known, who, being by me duly sworn, says that he is a Vice President of LOUISIANA & ARKANSAS RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

G. B. Niedermeyer
Notary Public

[Notarial Seal]

My Commission expires
May 29, 1979

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

On this 16 day of August 1976, before me personally appeared MICHAEL D. GOODMAN, to me personally known, who, being by me duly sworn, says that he is a Vice President of EXCHANGE NATIONAL BANK OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said national bank, that said instrument was signed and sealed on behalf of said national bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national bank.

Penny Gabrod
Notary Public

[Notarial Seal]

My Commission expires
4/27/78

SCHEDULE A TO LEASE

Type	Quantity	Lessee's Road Numbers (Both Inclusive)
3,000 h.p. diesel-electric locomotive, General Motors model SD-40-2	7	KCS 670-KCS 676

SCHEDULE B TO LEASE

Date	Percentage
January 1, 1977	102.0843
July 1, 1977	102.6622
January 1, 1978	102.8818
July 1, 1978	102.8574
January 1, 1979	102.5899
July 1, 1979	102.0805
January 1, 1980	101.5984
July 1, 1980	93.9680
January 1, 1981	92.7904
July 1, 1981	91.4052
January 1, 1982	90.0813
July 1, 1982	81.6472
January 1, 1983	79.7066
July 1, 1983	77.6025
January 1, 1984	75.6071
July 1, 1984	66.5526
January 1, 1985	64.0485
July 1, 1985	61.4334
January 1, 1986	58.7152
July 1, 1986	55.8964
January 1, 1987	52.9852
July 1, 1987	49.9843
January 1, 1988	46.9022
July 1, 1988	43.7397
January 1, 1989	40.5052
July 1, 1989	37.2074
January 1, 1990	33.8458
July 1, 1990	30.4197
January 1, 1991	26.9286
July 1, 1991	23.3720
January 1, 1992, and thereafter	20.0000