

RECORDATION NO. 0490 Filed & Recorded
SEP 24 1976 -1 35 PM

INTERSTATE COMMERCE COMMISSION



AMERICAN SECURITY BANK
AMERICAN SECURITY AND TRUST COMPANY

RECORDATION NO. 0490 Filed & Recorded

SEP 24 1976 -1 35 PM

INTERSTATE COMMERCE COMMISSION

15th STREET AND PENNSYLVANIA AVENUE, N. W., WASHINGTON, D. C. 20013

RECORDATION NO. 0490 Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

RONALD D. LARSON
VICE PRESIDENT AND TRUST OFFICER

(202) 624-4278

September 22, 1976

RECORDATION NO. 0490 Filed & Recorded

SEP 24 1976 -1 35 PM

INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
Washington, D. C. 20423

Dear Sir:

Herewith for recordation pursuant to Section 20c of the Interstate Commerce Act are counterparts of the following:

(1) Conditional Sale Agreement dated as of June 1, 1976, between American Security and Trust Company, N.A., as Trustee, Vendee, and Pullman Incorporated (Pullman Standard Division), Vendor, and Agreement and Assignment dated as of June 1, 1976 (in respect of the aforesaid Conditional Sale Agreement), between the aforesaid Vendor, as Assignor, and First Security Bank of Utah, National Association, as Agent (Assignee).

(2) Lease of Railroad Equipment dated as of June 1, 1976, between Grand Trunk Western Railroad Company, Lessee, and American Security and Trust Company, N.A., as Trustee, Lessor, and Assignment of Lease and Agreement (in respect of the aforementioned Lease) dated as of June 1, 1976, between the aforesaid Lessor, as Assignor, and First Security Bank of Utah, National Association, as Agent, Assignee.

The addresses of the parties to the aforementioned agreements are:

First Security Bank of Utah, N.A.
79 South Main Street
Salt Lake City, Utah 84110

Attention of Trust Department,
Corporate Division

Handwritten signature: C. Hayden

6-268-1088
Date SEP 24 1976
Fee \$ 100.00

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SEP 24 1 27 PM '76
I.C.C.
FEE OPERATION BR.

CC Washington, D.C.

Secretary
Interstate Commerce Commission
September 22, 1976
Page Two

Pullman Incorporated
(Pullman Standard Division)
200 South Michigan Avenue
Chicago, Illinois 60604

American Security and Trust Company, N.A.
15th Street and Pennsylvania Avenue, N. W.
Washington, D. C. 20013

Attention of Corporate Trust Officer

Grand Trunk Western Railroad Company
131 West Lafayette Boulevard
Detroit, Michigan

Attention of Secretary

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FEE OPERATION BR.

The equipment covered by the aforementioned documents consists of 150 100-ton triple hopper cars bearing the road numbers of the Grand Trunk Western Railroad Company GTW 138200 through 138349 and 118 100-ton box cars bearing the road numbers of the Grand Trunk Western Railroad Company GTW 375400 through 375517 and also bearing the legend "Ownership subject to a Security Agreement filed under the Interstate Commerce Act, Section 20c".

Enclosed is a check for \$ 100.00 for the required recordation fee. Please accept for recordation two counter parts of the enclosed Agreements, stamp the remaining counter parts with the recordation number and return them to the delivering messenger, along with your fee receipt, addressed to the undersigned.

Please cross-reference the documents to the Grand Trunk Western Railroad Company.

Very truly yours,

AMERICAN SECURITY AND TRUST
COMPANY, N.A., AS TRUSTEE

By 
Vice President

Encls.

Interstate Commerce Commission
Washington, D.C. 20423

9/24/76

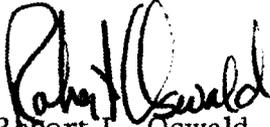
OFFICE OF THE SECRETARY

Mr. Ronald D. Larson
Vice President & Trust Officer
American Security Bank
15th St. & Pennsylvania Avenue N.W.
Washington, D.C. 20013

Dear

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 9/24/76 at 1:35pm , and assigned recordation number(s) 8490, 8490-A, 8490-B, 8490-C

Sincerely yours,


Robert L. Oswald
Secretary

Enclosure(s)

SE-30
(5/76)

RECORDATION NO. 8400 Filed & Recorded
SEP 24 1976 1 55 PM
INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of June 1, 1976

between

AMERICAN SECURITY AND TRUST COMPANY, N.A.,
as Trustee under a Trust Agreement
dated as of June 1, 1976, with
Westinghouse Credit Corporation

and

PULLMAN INCORPORATED
(Pullman Standard Division)

Conditional Sale Agreement

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CONDITIONAL SALE AGREEMENT dated as of June 1, 1976, between PULLMAN INCORPORATED (Pullman Standard Division) (hereinafter called the Vendor or Builder as more particularly set forth in Article 1 hereof) and AMERICAN SECURITY AND TRUST COMPANY, N.A., as Trustee (hereinafter called the Vendee) under a Trust Agreement dated as of June 1, 1976 (hereinafter called the Trust Agreement), with Westinghouse Credit Corporation (hereinafter called the Beneficiary).

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

WHEREAS the Vendee is entering into a lease (hereinafter called the Lease) dated as of the date hereof with GRAND TRUNK WESTERN RAILROAD COMPANY (hereinafter called the Lessee) of the Equipment, in substantially the form annexed hereto as Annex C; and

WHEREAS First Security Bank of Utah, National Association (hereinafter sometimes called the Assignee or the Vendor as more particularly set forth in Article 1 hereof), has agreed to invest in the Conditional Sale Indebtedness (as hereinafter defined) pursuant to the Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement), among the Assignee, the Lessee, the Vendee, the Beneficiary and the Investors for whom the Assignee is acting as agent.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Assignment; Definitions. The parties hereto contemplate that the Vendee will furnish that portion of the Purchase Price (as hereinafter defined) for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof between the Builder and the Assignee

(such Agreement and Assignment being hereinafter called the Assignment).

The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

In case of such assignment, the Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title, and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease and Agreement in the form of Annex D hereto (hereinafter called the Lease Assignment) and the Lessee shall consent thereto pursuant to a Consent and Agreement in the form attached to Annex D hereto (hereinafter called the Consent).

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Annex B hereto and will sell and deliver to the Vendee, and the Vendee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided) the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing among the Builder, the Vendee and the Lessee (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, and each such unit will be new railroad equipment

The Builder hereby represents to the Vendee that neither the execution and delivery of this Agreement by the Builder nor the performance by the Builder as contemplated herein is pursuant to or in furtherance of any plan, arrangement or understanding made on behalf of the Builder and arising out of, made in connection with or in any manner related to any prior, existing or presently contemplated investment in, transaction with or relationship with the Assignee with respect to any employee benefit plan (as defined in the Employee Retirement Income Security Act of 1974) of the Builder or any corporation directly or indirectly controlled by the Builder.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of the Equipment to the Vendee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until this Agreement and the Lease have been filed pursuant to Section 20c of the Interstate Commerce Act; and provided, further, however, that the Builder shall not deliver any unit of Equipment hereunder (i) subsequent to written notification to it by the Vendee or Assignee of the commencement of any proceedings specified in clauses (c) or (d) of Article 15 hereof or the occurrence of any event of default (as described in Article 15 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default, or (ii) unless (x) the Builder shall have been notified in writing by the Assignee that the conditions contained in Paragraph 6 of the Participation Agreement have been met and (y) the Builder shall have been notified in writing by the Vendee that the conditions contained in Paragraph 7 of the Participation Agreement have been met, or (iii) if the delivery of any such unit of Equipment would cause the aggregate Purchase Price (as hereinafter defined) of the units of Equipment for which delivery and acceptance has theretofore and is then being made to exceed the Maximum Purchase Price set forth in Item 5 of Annex A to this Agreement.

Any Equipment not delivered and accepted hereunder on or prior to December 31, 1976, by reason of the conditions, notifications and/or events set forth in this Article 3 or otherwise shall be excluded from this Agreement and the Vendee shall be relieved of its obligation to purchase and

pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. Pursuant to the Participation Agreement the Lessee has agreed to purchase such excluded Equipment from the Builder.

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

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who may be employees of the Lessee) and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee (who may be an employee of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 9 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 13 hereof.

On delivery and acceptance of each such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 13 hereof.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder

and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased plus freight and storage charges, if any, and any applicable sales taxes, all as set forth in the Builder's invoice or invoices delivered to the Vendee (such invoice or invoices being hereinafter called the Invoices).

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Vendee as is provided in Item 2 of Annex A hereto (each such group being hereinafter called a Group). The term "Closing Date" with respect to any Group shall mean such date (not earlier than August 15, 1976, and not later than December 31, 1976, such later date being herein called the Cut-Off Date) as shall be fixed by the Lessee, but a date not more than 30 business days following presentation by the Builder to the Vendee of the Invoices (with copies thereof to the Lessee) and of the Certificate or Certificates of Acceptance for a Group. Written notice of each Closing Date shall be delivered to the Vendee, the Builder, the Beneficiary and the Assignee by the Lessee at least six business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in Salt Lake City, Utah, or New York, New York, are authorized or obligated to remain closed.

The Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in immediately available Salt Lake City or Federal funds by wire transfer, not later than 11:00 a.m., Salt Lake City time, to the Vendor, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group an amount equal to 31.76% of the aggregate Purchase Price of such Group; and

(b) in 40 semiannual instalments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (herein called the Conditional Sale Indebtedness) shall be payable on each

January 15 and July 15, commencing July 15, 1977, to and including January 15, 1997 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.25% per annum. Such interest shall be payable, to the extent accrued, on January 15, 1977, and on each Payment Date thereafter. The instalments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest on each such Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto and such instalments of principal shall completely amortize the Conditional Sale Indebtedness. The Vendee will furnish to the Vendor, the Beneficiary and the Lessee promptly after each Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

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

The Vendee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 10.25% per annum.

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

The Builder shall deliver to the Vendee on the Closing Date with respect to any Group the documents required to be furnished by the Builder pursuant to Section 4 of the Assignment in respect of such Group.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 15 and 16 hereof), but not limiting the effect of Article 21 hereof, it is understood and agreed by the Vendor

that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, including any liability arising out of or in connection with the performance of its obligations hereunder and excluding only the obligations set forth in the proviso in the third paragraph of Article 12 hereof and the payments to be made pursuant to subparagraph (a) of the third paragraph of this Article, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment"; and such payments shall be made by the Vendee only to the extent that the Vendee (which term as used in this paragraph includes the Vendor to the extent payments under the Lease are made to the Vendor as contemplated therein and any assignee of the Vendee) shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. In addition, the Vendor agrees that the Vendee (i) makes no representation or warranty, and is not responsible for, the due execution, validity or enforceability of the Lease or any document relating thereto (except for the due authorization, execution and delivery thereof by the Vendee) or of any of the Lessee's obligations thereunder and (ii) shall have no obligation or liability whatsoever to see to or be responsible for the performance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Equipment and to the Vendor's rights under the Lease. As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 15 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under Section 9 thereof or any other provision of the Lease and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition (it being understood and agreed that all payments of "income and proceeds from the Equipment", received pursuant to this subclause (i) in excess of the unpaid Conditional Sale Indebtedness and all other payments due to the Vendor under this Agreement shall be paid to the Vendee) and (ii) at any

other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Vendee or any assignee of the Vendee and as shall equal the portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. Notwithstanding anything to the contrary contained in Article 15 or 16 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder or to proceed against the Lessee, under the Lease or the Consent, with any excess over the amount due and payable hereunder (without regard to any limitation of liability hereunder of the Vendee) being promptly remitted to the Vendee.

ARTICLE 5. Security Interest in the Equipment.

The Vendor shall and hereby does retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease.

Except as otherwise specifically provided in Arti-

8/31/76

~~INSERT~~ and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so

cle 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to ~~the Vendee~~ **INSERT** requested by the Vendee at that time, will (a) execute an instrument or instruments releasing its security interest in the Equipment to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument or instruments to the Vendee at its address referred to in Article 20 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than gross receipts taxes [except gross receipt taxes in the nature of or in lieu of sales or use or rental taxes], taxes measured by net income, excess profits taxes and similar taxes or general corporation, franchise or like taxes measured by Vendor's capital, capital stock or net worth) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which such impositions the Vendee assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment. The Vendee will also pay promptly all impositions which may

be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Vendor solely by reason of its ownership thereof (except as provided above) and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the security interest of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest or property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of independent counsel for the Vendor) or unless the Vendee shall have approved in writing the payment thereof.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order, repair and condition, reasonable wear and tear excepted.

In the event that any unit of the Equipment shall be or become worn out, 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 the Lease or for an indefinite period, but only if such requisition for an indefinite period shall be in effect on the expiration date of the Lease, 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 the Lease (such occurrences being herein called Casualty Occurrences), the Vendee shall promptly cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendor a sum equal to the Casu-

alty Value (as hereinafter defined in this Article 7) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Assignee pursuant to this paragraph shall be applied (after the payment of the interest and principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each principal instalment, each instalment of the Conditional Sale Indebtedness and the Vendee will promptly furnish to the Assignee, the Beneficiary and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Assignee may request.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest, and the release of the Vendor's security interest, in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article 7 with respect to any other unit), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of the Purchase Price in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of the Equipment.

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence, the Vendor shall, subject to the Vendor having received payment of the Casualty Value hereunder, pay such insurance proceeds or condemnation payments to the

Vendee. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. Reports and Inspections. On or before March 31 in each year, commencing with the year 1978, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment then subject to this Agreement, the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) and setting forth such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 9 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Vendee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 9. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the road number of the Lessee as set forth in Annex B hereto, 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", 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 Vendor's interest in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement pre-

viously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

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

ARTICLE 10. Compliance with Laws and Rules. During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all applicable laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or modification of or to any part on any unit of the Equipment, the Vendee will conform therewith at its own expense; provided, however, that the Vendee or the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 11. Possession and Use. The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The parties hereto acknowledge that the Vendee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinated

and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement, subject to the provisions of Section 11 of the Lease. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor.

Subject to the provisions of the preceding paragraph of this Article 10, the Equipment may be used upon the lines of railroad owned or operated by the Lessee or any affiliate of the Lessee (or any other railroad company approved by the Vendor) or upon lines of railroad 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 the Equipment may be used upon connecting and other carriers in the usual interchange of traffic or equipment, but only upon and subject to all the terms and conditions of this Agreement; provided, however, that the Vendee shall not assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America.

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

ARTICLE 12. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge, security interest or other encumbrance upon or with respect to the Equipment, or any unit thereof, or the Vendee's interests in the Lease and the payments to be made thereunder equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate

legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

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

The foregoing provisions of this Article 12 shall be subject to the limitations set forth in the last paragraph of Article 4 hereof and the provisions of Article 21 hereof; provided, however, that the Vendee will pay or discharge any and all claims, liens, charges, security interests or other encumbrances claimed by any party from, through or under the Vendee, the Beneficiary or their successors or assigns, not arising out of the transactions contemplated hereby (but including tax liens arising out of the receipt of the income and proceeds from the Equipment), equal or superior to the Vendor's security interest, which, if unpaid, might in the reasonable opinion of the Vendor become a lien, charge, security interest or other encumbrance on or with respect to the Equipment, or any unit thereof, or the Vendee's or Beneficiary's interests in the Lease and the payments to be made thereunder, but the Vendee shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement or in and to the Lease and the payments to be made thereunder.

ARTICLE 13. Indemnities and Warranties. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, except those resulting from gross negligence or wilfull misconduct of the Vendor, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or

as the result of the entering into or the performance of this Agreement, the retention by the Vendor of a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any accident, in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period while a security interest therein remains in the Vendor or during the period of the transfer of such security interest in the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except, however, in the case of the Builder, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the release of the security interest in, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

The Vendee will bear the responsibility for and risk of, and shall not be released from its obligations hereunder (except as provided in Articles 4, 7 and 21 hereof) in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

The Builder represents and warrants to the Vendee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Builder will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under this Agreement, the Assignee under the Assignment and the rights of the Lessee under the Lease.

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

ARTICLE 14. Assignments. The Vendee will not (a) except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement without the prior written consent of the Vendor except as provided in Article VI or VII of the Trust Agreement.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 13 hereof and Annex A hereto, or relieve the Vendee of its obligations to the Builder contained in Articles 2, 3, 4 and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is intended to survive an assignment.

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

The Vendee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Vendee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to the entire unpaid indebtedness in respect of the Conditional Sale Indebtedness, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time

owing to the Vendee or the Lessee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Lessee, as the case may be, against and only against the Builder.

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Vendee (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder and such default shall continue for 15 business days after the date such payment became due and payable; or

(b) the Vendee (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) shall, for more than 30 days after the Vendor shall have demanded in writing by notice delivered to the Vendee performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

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

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

(e) the Vendee shall make or permit any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment and the Vendee shall, for more than 30 days after demand in writing by the Vendor, fail to secure a reassignment or retransfer to the Vendee of such Agreement, interest or right; or

(f) an Event of Default shall have occurred under the Lease;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee, the Beneficiary and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) cause the Lease immediately upon

such notice, except as provided in the second paragraph of Section 11 thereof, to terminate (and the Vendee acknowledges the right of the Vendor to terminate the Lease), but without affecting the indemnities which by the provisions of the Lease survive its termination and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, subject to the provisions of Articles 4 and 21 hereof, wherever situated. The Vendee shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

Anything in this Agreement to the contrary notwithstanding, in the case of any event of default occurring due to the failure of the Lessee to make a payment of rental pursuant to Section 2 of the Lease, the Vendor shall not, without the prior written consent of the Beneficiary, exercise any remedy or remedies provided herein or in the Lease in respect thereof during a 30-day period next following the giving of written notice to the Beneficiary constituting a Declaration of Default as provided above. During such 30-day period the Beneficiary shall have the right to cure on behalf of the Lessee the Event of Default under the Lease resulting from such failure to make the rental payment. Such right to cure may be exercised by the Beneficiary any number of times throughout the term of the Lease whether or not the Lessee shall at any time repay any amounts advanced in order to cure one or more such defaults, and each such separate default occurring subsequent to a default which has been so cured by the Beneficiary shall be subject to the notice requirement and the 30-day period during which the Vendor may not exercise its remedies as hereinabove provided. No party exercising any right to cure an event of default pursuant to this paragraph shall obtain any lien, charge or

encumbrance of any kind upon the Equipment or any rentals or other amounts payable therefor under the Lease in respect of any sums paid in connection with the exercise of such right or the curing of such default, nor shall any claims of such party against the Lessee or the repayment of such sums so advanced impair the prior right of the Vendor to the sums payable by the Lessee under the Lease. The rights provided in this paragraph shall be in addition to, and shall not be construed to limit, the rights of the Vendee set forth in the fourth paragraph of Article 16 hereof.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Vendee, the Beneficiary and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Vendee or any other person and for such purpose may enter upon the premises of the Vendee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee or the Lessee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Vendee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, causing prompt telegraphic and written notice to be given to the Association of American Railroads and all railroads to which any unit or units of the Equipment have been interchanged to return the unit or units so interchanged) cause the Equipment to be placed upon such storage tracks of the Lessee as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks at the risk of the Vendee without charge for insurance, rent or storage for a period of 270 days after all the Equipment has been assembled on such tracks; and

(c) cause the Equipment to be transported to any reasonable 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 Vendor.

During any storage period, the Vendee will, at its own cost and expense, insure, maintain and keep each such unit in good order and repair and will permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers, lessees and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Beneficiary by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30

days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon not less than 15 days' prior written notice to the Vendee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Lessee or any other party claiming from, through or under the Vendee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's rea-

sonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fee and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor or the Vendee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee, the Beneficiary and the Lessee shall be given written notice of such sale not less than 15 days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Vendee to purchase or provide a purchaser, within 15 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee (except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expe-

dient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Vendee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee.

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

Except as otherwise provided in this Agreement, the Vendee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more

units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

ARTICLE 18. Recording. The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act; and the Vendee will from time to time cause to be done and performed any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish or cause to be furnished to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 19. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Except for the Participation Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Vendee with respect to the Equipment and supersedes all other agreements, oral

or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Vendee.

ARTICLE 20. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at the following addresses

(a) to the Vendor, at 79 South Main Street, Salt Lake City, Utah 84111, attention of Trust Department, Corporate Division, with a copy to ITEL Leasing Corporation, One Embarcadero Center, San Francisco, California 94111, attention of Contract Administration,

(b) to the Vendee, at 15th Street and Pennsylvania Avenue, N.W., Washington, D. C. 20013, attention of Corporate Trust Officer, with a copy to the Beneficiary and a copy to ITEL Leasing Corporation, One Embarcadero Center, San Francisco, California 94111, attention of Contract Administration,

(c) to the Beneficiary, at 3 Gateway Center, 23d Floor, Pittsburgh, Pennsylvania 15222, attention of Manager of Lease Operations,

(d) to the Builder, at the address specified in Item 1 of Annex A hereto,

(e) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, and to the Lessee, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 21. Immunities; Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto or of the Beneficiary, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability,

whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the second and seventh and eighth paragraphs of Article 16 and under Articles 3, 6, 7 (other than the second and third sentences of the second paragraph thereof to the extent requiring delivery of certificates and payment schedules as therein provided), 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by American Security and Trust Company, N.A., or for the purpose or with the intention of binding such Trust Company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement and this Agreement is executed and delivered by such Trust Company solely in the exercise of the powers expressly conferred upon such Trust Company 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 such Trust Company or the Beneficiary (except as provided in Section 5.02 of the Trust Agreement) or on account of any representation, undertaking or agreement of such Trust Company, as Vendee, or the Beneficiary (except as provided in Section 5.02 of the Trust Agreement) either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

The Vendee agrees that it will not enter into any amendment to or modification of the Trust Agreement except as provided in Article VIII thereof.

ARTICLE 22. Law Governing. The Vendee warrants that its chief place of business is located in the District of Columbia. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the District of Columbia; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, such counterparts together constituting but one and the same contract, but the counterpart delivered to the Assignee pursuant to the Assignment shall be deemed the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

PULLMAN INCORPORATED
(Pullman Standard Division),

by *Thomas Glaser*
Vice President-Freight Unit

[CORPORATE SEAL]

Attest:

Verna J. Eason
Assistant Secretary

AMERICAN SECURITY AND TRUST
COMPANY, N.A., as Trustee,

by

Vice President

[SEAL]

Attest:

Assistant Secretary

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

On this 31st day of August 1976, before me personally appeared Thomas P. Blasert to me personally known, who, being by me duly sworn, says that he is a Vice President-Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), 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.

[Notarial Seal]

William E. York
Notary Public

My Commission expires: May 3, 1978

DISTRICT OF COLUMBIA) ss.:

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 AMERICAN SECURITY AND TRUST COMPANY, N.A., that one of the seals affixed to the foregoing instrument is the seal of said Trust Company, that said instrument was signed and sealed on behalf of said Trust Company by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Trust Company.

[Notarial Seal]

Notary Public

My Commission expires:

SCHEDULE I TO CONDITIONAL SALE AGREEMENT

Allocation Schedule of Each
\$1,000,000 of Conditional Sale Indebtedness
Payable in Instalments
from July 15, 1977 to January 15, 1997

<u>Date</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Total Payment</u>
July 15, 1977	46,250	18,721	64,970.99
January 15, 1978	45,384	19,587	64,970.99
July 15, 1978	44,478	20,493	64,970.99
January 15, 1979	43,530	21,441	64,970.99
July 15, 1979	42,539	22,432	64,970.99
January 15, 1980	41,501	23,470	64,970.99
July 15, 1980	40,416	24,555	64,970.99
January 15, 1981	39,280	25,691	64,970.99
July 15, 1981	38,092	26,879	64,970.99
January 15, 1982	36,849	28,122	64,970.99
July 15, 1982	35,548	29,423	64,970.99
January 15, 1983	34,187	30,784	64,970.99
July 15, 1983	32,764	32,207	64,970.99
January 15, 1984	31,274	33,697	64,970.99
July 15, 1984	29,716	35,255	64,970.99
January 15, 1985	28,085	36,886	64,970.99
July 15, 1985	26,379	38,592	64,970.99
January 15, 1986	24,594	40,377	64,970.99
July 15, 1986	22,727	21,263	43,989.27
January 15, 1987	21,743	22,246	43,989.27
July 15, 1987	20,715	23,275	43,989.27
January 15, 1988	19,638	23,680	43,318.05
July 15, 1988	18,543	24,775	43,318.05
January 15, 1989	17,397	24,833	42,229.55
July 15, 1989	16,248	25,981	42,229.55
January 15, 1990	15,047	26,041	41,088.07
July 15, 1990	13,842	27,246	41,088.07
January 15, 1991	12,582	27,309	39,891.04
July 15, 1991	11,319	28,572	39,891.04
January 15, 1992	9,998	22,489	32,486.80
July 15, 1992	8,958	23,529	32,486.80
January 15, 1993	7,870	24,617	32,486.80
July 15, 1993	6,731	25,756	32,486.80
January 15, 1994	5,540	14,866	20,405.34
July 15, 1994	4,852	15,553	20,405.34
January 15, 1995	4,133	14,946	19,079.40
July 15, 1995	3,442	15,638	19,079.40
January 15, 1996	2,718	15,674	18,392.36
July 15, 1996	1,993	16,399	18,392.36
January 15, 1997	1,235	26,704	27,938.65
TOTAL	\$ 908,139	\$1,000,000	\$1,908,139.00

Annex A

to

Conditional Sale Agreement

- Item 1: 200 South Michigan Avenue, Chicago, Illinois 60604.
- Item 2: The Equipment shall be settled for in not more than four Groups of units of the Equipment delivered to and accepted by the Vendee unless a greater number shall be agreed to by the parties hereto.
- Item 3: The Builder warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Article 2 of the Conditional Sale Agreement to which this Schedule A is attached (hereinafter called the Agreement) and warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by the Builder) and workmanship under normal use and service, the Builder's obligation under this Item 3 being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit to the Vendee, be returned to the Builder with transportation charges prepaid and which the Builder's examination shall disclose to its reasonable satisfaction to have been thus defective.

The foregoing warranty of the Builder is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and of all other obligations or liabilities on the part of the Builder, except for its obligations under Articles 2, 3, 4 and 13 of the Agreement, and the Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid. It is further understood that in no event shall the Builder be liable for indirect or consequential damages of any kind.

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

Item 4: Except in case of designs, processes or combinations specified by the Lessee and not developed or purported to be developed by the Builder, and articles and materials specified by the Lessee and not manufactured by the Builder, the Builder agrees to indemnify, protect and hold harmless the Vendee, and the Lessee, the Vendor and the Beneficiary, as third party beneficiaries, from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Lessee, the Vendor, the Vendee and the Beneficiary because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process, combination, article or material infringing or claimed to infringe on any patent or other right. The Lessee likewise will (as provided in Section 8 of the Lease) indemnify, protect and hold harmless the Builder from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Builder because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process or combination specified by the Lessee and not developed or purported to be developed by the Builder, or article or material specified by the Lessee and not manufactured by the Builder, which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Vendee and the Lessee every claim, right and cause of action which the Builder has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article or material specified by the Lessee and used by the Builder

in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and the Builder further agrees to execute and deliver to the Vendee and the Lessee all and every such further assurances as may be reasonably requested by them more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Vendee will give notice to the Builder of any claim known to the Vendee on the basis of which liability may be charged against the Builder hereunder.

Item 5: The Maximum Purchase Price referred to in Article 3 of the Conditional Sale Agreement to which this Annex A is attached is \$8,797,000.

Item 6: The Maximum Conditional Sale Indebtedness referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is \$6,003,072.80.

Annex B

to

Conditional Sale Agreement

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Road Numbers (Both Inclusive)	Unit Base Price	Total Base Price	Estimated Time and Place of Delivery
100-ton covered hopper cars; AAR Designation: LO	Pullman's Number 9866	Butler, Pennsylvania	150	GTW 138200-138349	\$ 29,000	\$4,350,000	Prior to December 31, 1976, at Butler, Pennsylvania
100-ton box cars; AAR Designation: XP	Pullman's Number 9834	Bessemer, Alabama	100	GTW 375400-375499	\$ 37,686.44	\$3,768,644	Prior to December 31, 1976, at Bessemer, Alabama
100-ton box cars; AAR Designation: XL	Pullman's Number 9834	Bessemer, Alabama	18	GTW 375500-375517	\$ 37,686.44	\$ 678,356	Prior to December 31, 1976, at Bessemer, Alabama

ANNEX C
to the
CONDITIONAL SALE
AGREEMENT

LEASE OF RAILROAD EQUIPMENT

Dated as of June 1, 1976

Between

GRAND TRUNK WESTERN RAILROAD COMPANY

and

AMERICAN SECURITY AND TRUST COMPANY, N.A.,
as Owner Trustee

LEASE OF RAILROAD EQUIPMENT

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* This Table of Contents has been included in this document for convenience 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 June 1, 1976, between GRAND TRUNK WESTERN RAILROAD COMPANY (hereinafter called the Lessee) and AMERICAN SECURITY AND TRUST COMPANY, N.A., a District of Columbia corporation, not in its individual capacity but solely as Trustee (hereinafter called the Lessor or the Vendee) under a Trust Agreement dated as of June 1, 1976 (hereinafter called the Trust Agreement), with WESTINGHOUSE CREDIT CORPORATION (hereinafter called the Beneficiary).

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), 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 Units);

WHEREAS the Builder is assigning its interests in the Security Document pursuant to an Agreement and Assignment (hereinafter called the Assignment) to First Security Bank of Utah, National Association, as Agent, under the terms of a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessee, the Lessor, the Beneficiary and the parties named in Schedule A thereto (said national association, as so acting, being hereinafter, together with its successors and assigns, called the Vendor; and said parties for whom it is acting being hereinafter called the Investors);

WHEREAS the Lessee desires to lease such number of Units as are delivered and accepted and settled for under the Security Document at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the Lessor will assign this Lease for security to the Vendor pursuant to an Assignment of Lease and Agreement (hereinafter called the Lease Assignment) and the Lessee will consent to the Lease Assignment pursuant

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 properly 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 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, 9 and 12 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due hereunder.

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 Document. If an event of default shall occur under the Security Document the Vendor may, except as provided in the second paragraph of Section 11 hereof, terminate this Lease (or rescind its termination), all as provided therein.

Section 4. Identification Marks. The Lessee, so long as this Lease shall remain in effect, will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, the legend required by Article 9 of the Security Document or other appropriate markings 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 Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the Vendor under the Security Document. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such legend shall have been so marked on both sides thereof and will replace promptly any such legend which may be removed, obliterated, 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 filed, recorded

and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to that effect and to the further effect that such filing, recordation and deposit will protect the Vendor's and the Lessor's interests in such Units and that no filing, recording, depositing or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

Except as above provided, the Lessee, so long as this Lease shall remain in effect, will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

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, Federal or foreign taxes (other than any United States Federal income tax and, to the extent that the Lessor receives credit therefor against its United States Federal income tax liability, any foreign income tax payable by the Lessor in consequence of the receipt of payments provided herein 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, up to the amount of any such taxes which would be payable to the state and city in which the Beneficiary has its principal place of business without apportionment to any other state or city, 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), 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 or the Security Document, all

of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. 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 such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions 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 or under the Security Document. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor; provided, however, that the Lessee shall not be obligated to reimburse the Lessor for any impositions so paid unless the Lessor shall have been legally liable, with respect thereto (as evidenced by an opinion of independent counsel for the Lessor) or unless the Lessee shall have approved in writing the payment thereof.

In the event that the Lessor shall become obligated to make any payment to the Vendor pursuant to Article 6 of the Security Document not covered by the foregoing paragraph of this Section 5, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said Article 6.

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 and the Vendor in the Units as shall be reasonably satisfactory to the Lessor and the Vendor or, where not so permitted, will notify the Lessor and the Vendor of such requirement and will prepare and deliver such reports to the Lessor and the Vendor within a reasonable time prior to the time such reports are to be filed in such manner as shall be satisfactory to the Lessor and the Vendor.

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 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, 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 this Lease or for an indefinite period, but only if such requisition for an indefinite period shall be in effect on the expiration date of this Lease, 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 this Lease (each such occurrence being hereinafter called a Casualty Occurrence) prior to the return of such Unit in the manner set forth in Section 13 hereof, the Lessee shall, within thirty days after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor and the Vendor 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 the rental payment date listed in Table 1 of Schedule B hereto next succeeding such notice. On such rental payment date 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 an amount equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with Schedule B hereto. 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 this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit. 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 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 the sum of (a) that percentage of the Purchase Price of such Unit as is set forth in Table 1 of Schedule B hereto opposite such date with respect to such Unit plus (b) if applicable to such Unit, that percentage of the Purchase Price thereof as set forth in Table 2 of said Schedule B with respect to such Unit.

Whenever any Unit shall suffer a Casualty Occurrence at the end of the term of this Lease or after termination of this Lease and before such Unit shall have been returned in the manner provided in Section 13 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 such 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 the Equipment to the Lessor, at its own expense, cause to be carried and maintained, with independent insurance carriers or by self-insurance, property insurance in respect of the Units at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it, and the benefits thereof shall be payable to the Vendor, the Lessor and the Lessee, as their interests may appear,

so long as the indebtedness, if any, evidenced by the Security Document shall not have been paid in full, and thereafter to the Lessor and the Lessee as their interests may appear. If the Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, so long as an Event of Default shall not have occurred and be continuing, 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 or condemnation payments 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. Annual Reports. On or before March 31 in each year, commencing with the calendar year 1978, the Lessee will cause to be furnished to the Lessor, the Beneficiary, the Vendor and ITEL Leasing Corporation (at the addresses shown in Section 17 hereof), an accurate statement, as of the preceding December 31, showing the amount, description and numbers of the Units (a) then leased hereunder and/or covered by the Security Document, (b) that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease in the case of the first such statement) and (c) setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, and stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by Section 4 hereof and by Article 9 of the Security Document shall have been preserved or replaced. The Lessor, the Vendor and the Beneficiary, respectively, 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, the Vendor or the Beneficiary, respectively, may request during the continuance of this Lease.

The Lessee will furnish to the Beneficiary and each Investor who shall request the same (i) within 90 days after the end of each of the first three quarterly fiscal periods of the Lessee, statements of income and surplus of the Lessee

and its consolidated subsidiaries as of the close of such periods, in reasonable detail and certified by any Vice President or the Treasurer of the Lessee, (ii) within 120 days after the close of each of the fiscal years of the Lessee, balance sheets of the Lessee and its consolidated subsidiaries as of the close of such fiscal years, together with the related statements of income and surplus and source and application of funds for such fiscal years all in reasonable detail and certified by a recognized national firm of independent public accountants, (iii) promptly upon the filing of the same, the reports of the Lessee filed with the Interstate Commerce Commission on Form R-1 and (iv) from time to time such other information as the Lessor or the Beneficiary may reasonably request. Within 120 days after the close of each fiscal year of the Lessee, the Lessee will furnish to the Beneficiary, the Vendor and each Investor requesting the same, a certificate of the Lessee, signed by a principal financial officer, to the effect that the signer has reviewed the relevant terms of this Lease, the Participation Agreement and the Security Document and has made, or caused to be made under his supervision, a review of the transactions and condition of the Lessee 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 or an Event of Default hereunder or which, after notice or lapse of time or both, would constitute such a default or 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 has taken or is taking or proposes to take with respect thereto. The Lessee will furnish the Lessor from time to time on request such information as the Lessee or the Lessor may be required to furnish to any person pursuant to the Security Document.

Section 8. 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 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 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 to the Security Document; 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 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 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, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules 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 of any Unit, the Lessee will conform therewith at its own expense; pro-

vided, 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 counsel for the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor, respectively, under this Lease or under the Security Document. 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, the Builder (to the extent provided in Item 4 of Annex A to the Security Document) and the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, except those resulting from gross negligence or willful misconduct of the Lessor, the Builder or the Vendor, 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 Security Document, the Participation 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, (iii) the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit, (iv) 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 Section 13 of this Lease or (v) the transfer of title to the Equipment by the Vendor pursuant to any provision of the Security Document. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the delivery of the Equipment or the full payment and performance of all obligations under this Lease or the expiration or termination of the term of this Lease; provided, however, that the foregoing indemnification shall not apply to any failure of payment of any of the principal of or interest on the Conditional Sale Indebtedness (as defined in the Security Document) or the matters referred to in the proviso to the last paragraph of

Article 12 of the Security Document. The indemnities arising under this paragraph shall not be deemed to operate as a guaranty of the residual value of the Units or as a guaranty of the payment of the principal of or interest on the Conditional Sale Indebtedness.

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

Section 9. 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 12 hereof and such default shall continue for 10 business days;

B. default shall be made in the observance or performance of any other of the covenants, conditions and agreements, terms or conditions 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;

C. any representation or warranty made by the Lessee herein or in any statement or certificate furnished to the Lessor or its assigns pursuant to or in connection with this Lease, the Security Document or the Participation Agreement proves untrue in any material respect as of the date of issuance or making thereof;

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 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 shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings (whether or not subject to ratification) 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 for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease, the Participation Agreement or the Consent 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, 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 shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

F. 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 the Units, or any thereof;

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

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance

by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; 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 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 the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals 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 rentals 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 6.00% 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; 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 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 10. Return of Units upon Default. If this Lease shall terminate pursuant to Section 9 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 (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) place such Units upon such storage tracks of the Lessee 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, for a period of 270 days after all the Units have been assembled on such tracks; and

(c) transport the same to any place on the lines of railroad operated by it or any of its affiliates or to 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 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 at any reasonable time; 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. 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 per diem

interchange rate for 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 obligations of the Lessee under the foregoing provisions of this Section 10, 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 whomsoever shall be in possession of such Unit at the time.

Section 11. Assignment; Possession and Use; Discharge of Liens. 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. The Lessee hereby acknowledges notice of the Lease Assignment and agrees to make payments to the Vendor as provided therein. The rights of the Lessor hereunder (including, but not limited to, the rights under Sections 5, 6, 8 and 9 hereof and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Vendor as assignee thereunder in the manner and to the extent therein provided. In the event that, pursuant to the Lease Assignment and the rights of the Vendor thereunder and under the Security Document, the Vendor shall at any time cause this Lease to be terminated, the Lessee agrees that following the payment in full by the Vendee of the entire unpaid Conditional Sale Indebtedness (as defined in the Security Document) together with interest thereon, the Vendee may enforce compliance by the Lessee with its covenants and agreements under this Lease.

So long as the Lessee shall not be in default under this Lease, and the Lessee is complying with the provisions of the Consent and so long as the Vendor is entitled to apply the Payments (as defined therein) as provided in the Lease Assignment, 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.

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 or the Vendor after the date hereof 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, 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 upon lines of railroad owned or operated by it or any such affiliate or upon the lines of railroad 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 and equipment, but only upon and subject to all the terms and conditions of this Lease, including the last paragraph of this Section 11, and the Security Document. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this Section 11 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 railroad properties 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.

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 12. 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 six months prior to the end of the original term of this Lease or the first extended term hereof, (a) to purchase some or all of the Units covered by the Lease at the end of the original term or such renewal term of this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of such term or (b) to extend the term of this Lease in respect of all, but not fewer than all, the Units covered by this Lease for an additional five-year period commencing on the scheduled expiration of the original term or the extended term of this Lease, as the case may be, provided that the Lessee may not so elect to extend the term of this Lease for more than two such additional five-year periods, at a rental payable in semiannual payments, in an amount equal to the "Fair Market Rental" of such Units as of the commencement of such extended term, such semiannual payments to be made on January 15 and July 15 in each year of the applicable extended term.

Fair Market Value or 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 buyer-user or lessee, as the case may be (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing seller or lessor under no compulsion to sell or lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

If on or before four 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 Fair Market Value of the Units, as the case may be, 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 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 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. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental or Fair Market Value, as the case may be, and shall, subject to prior agreement by the Lessor and the Lessee as contemplated by the first sentence of this paragraph, 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 by the Lessee.

Section 13. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the original or any extended term of this 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 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 three months and transport the same, at any time within such three-month period, to any connecting carrier 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 at any reasonable time; 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 13 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, and/or the applicable rules of any governmental agency or other organization with jurisdiction and (iii) 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 8 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 transport the Units.

All amounts earned in respect of the Units after the end of the term 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 the end of the term of this Lease, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the per diem interchange rate for such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

Section 14. 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 15. Recording; Expenses. The Lessee, at its own expense, will cause this Lease, the Security Document and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and recorded with the Registrar of Canada in accordance with Section 86 of the National Railway Act of Canada. The Lessee will undertake the filing, recording and depositing and refiling, re-recording and redepositing required of the Lessor under the Security Document and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, re-register, re-record or redeposit 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 or the assignment hereof to the Vendor, or the Security Document; and the Lessee will promptly furnish to the Vendor and the Lessor evidences of all such filing, registering, recording or depositing, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any unit.

Section 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations when due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 10.25% 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 17. 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

15th Street and Pennsylvania Avenue N.W.,

Washington, D.C. 20013,

Attention of Corporate Trust Officer,

with a copy to the Beneficiary,

if to the Lessee, at

131 West Lafayette Boulevard,
Detroit, Michigan 48226,

Attention of Secretary,

with a copy to

Canadian National Railway Company,
P. O. Box 8100,
Montreal, Quebec, Canada, H3C 3N4,

Attention of Treasurer,

if to the Vendor, at

79 South Main Street
Salt Lake City, Utah 84111,

Attention of Trust Department,
Corporate Division,

if to the Beneficiary, at

Three Gateway Center (23rd Floor),
Pittsburgh, Pennsylvania 15222,

Attention of Manager of Lease Operations,

in each case with a copy to ITEL Leasing Corporation, at

One Embarcadero Center,
San Francisco, California 94111,

Attention of Contract Administration,

or addressed to any such 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 as hereinabove provided.

Section 18. Effect and Modification of Lease. Except for the Participation Agreement, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supercedes 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 19. Definitions. Whenever the term "Lessor" is used in this Lease it shall include the Beneficiary and any assignee and, where the context so requires, shall refer only to the Beneficiary or such assignee. If and so long as this Lease is assigned to the Vendor (or any successor thereto) for collateral purposes, wherever the term "Lessor" is used in this Lease it shall also apply and refer to the Vendor and any successors thereto unless the context shall otherwise require and except that the Vendor shall not be subject to any liabilities or obligations under this Lease; and the fact that the Vendor is specifically named in certain provisions shall not be construed to mean that the Vendor (and any successors thereto) is not entitled to the benefits of other provisions where only the Lessor is named or where only the Vendor, as the case may be, is named.

Section 20. 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 Lease Assignment 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 21. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Michigan; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and any other statute pursuant to which this Lease is filed or deposited.

Section 22. Immunities; No Recourse. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all the representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, covenants, undertakings and agreements by American Security and Trust Company, N.A., or for the purpose or with the intention of binding said national association 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 Lease is executed and delivered by said American Security and Trust Company, N.A., solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and except in the case of gross negligence or wilful misconduct, no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said corporation or the Beneficiary or on account of any representation, covenant, undertaking or agreement of the Lessor, either express or implied, all such personal liability, if any, being expressly waived and released by the Lessee.

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

AMERICAN SECURITY AND TRUST COMPANY, N.A.,
as Trustee,

[Seal]

by

Attest:

Vice President

Assistant Secretary

GRAND TRUNK WESTERN RAILROAD COMPANY,

[Corporate Seal]

by

Attest:

Vice President

Attesting Officer

SCHEDULE A

<u>Quantity</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>Lessee's Road Numbers (Inclusive)</u>
150	LO	100-ton covered hopper cars	GTW 138200 -138349
100	XP	100-ton box cars	GTW 375400 -375499
18	XL	100-ton box cars	GTW 375500 -375517

SCHEDULE B

Casualty Value Percentages Schedule

Table 1

<u>Rental Payment Date</u>	<u>Percentage of Purchase Price</u>
July 15, 1977	85.6274
January 15, 1978	85.7898
July 15, 1978	85.7336
January 15, 1979	85.4402
July 15, 1979	84.9449
January 15, 1980	84.2264
July 15, 1980	83.3160
January 15, 1981	82.1983
July 15, 1981	80.8999
January 15, 1982	79.4119
July 15, 1982	77.7564
January 15, 1983	75.9308
July 15, 1983	73.9529
January 15, 1984	71.8315
July 15, 1984	69.6033
January 15, 1985	67.2723
July 15, 1985	64.8407
January 15, 1986	62.3758
July 15, 1986	59.8971
January 15, 1987	57.3743
July 15, 1987	54.7878
January 15, 1988	52.1586
July 15, 1988	49.4644
January 15, 1989	46.7274
July 15, 1989	43.9232
January 15, 1990	41.0752
July 15, 1990	38.1578
January 15, 1991	35.1957
July 15, 1991	32.1621
January 15, 1992	29.0828
July 15, 1992	28.1016
January 15, 1993	27.1490
July 15, 1993	26.2155
January 15, 1994	25.3152
July 15, 1994	24.4072
January 15, 1995	23.5065
July 15, 1995	22.5985
January 15, 1996	21.6986
July 15, 1996	20.7932
January 15, 1997	20.0000

Table 2

The percentages set forth in Table 1 of this Schedule B have been computed without regard to recapture of the Investment Credit (as defined in the Participation Agreement). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence on or before the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth below:

<u>Anniversary of Delivery and Acceptance</u>	<u>Percentage of Purchase Price</u>
Third	19.2308%
Fifth	12.8205%
Seventh	6.4103%

ANNEX D to the
CONDITIONAL SALE
AGREEMENT

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of June 1, 1976

between

AMERICAN SECURITY AND TRUST COMPANY, N.A.,
as Owner Trustee

and

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION,
not in its individual capacity but solely
as Agent

ASSIGNMENT OF LEASE AND AGREEMENT

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LESSEE'S CONSENT AND AGREEMENT	

ASSIGNMENT OF LEASE AND AGREEMENT dated as of June 1, 1976, by and between AMERICAN SECURITY AND TRUST COMPANY, N.A., not in its individual capacity but solely as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Lessor or the Vendee) with WESTINGHOUSE CREDIT CORPORATION (hereinafter called the Beneficiary), and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity but solely as Agent (hereinafter called the Vendor), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessor, the Beneficiary, the Lessee as hereinafter defined, and certain institutional investors.

The Vendee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Document), with Pullman Incorporated (Pullman Standard Division) providing for the sale to the Vendee of the interest of the Vendor in such units of railroad equipment (hereinafter called the Units) described in Schedule A thereto as are delivered to and accepted by the Vendee thereunder.

The Lessor and Grand Trunk Western Railroad Company (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units.

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

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

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as Vendee under the Security Document, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease; provided, however, that such assignment and transfer shall be limited to the rights and interests of the Lessor under the Lease as above described and shall in no way be deemed to assign any right, title and interest, powers, privileges or other benefits of the Beneficiary which it may have obtained from the Lessee or otherwise with respect to the Units, including, without limitation, all right, title and interest, powers, privileges and benefits of the Beneficiary arising under Paragraph 11 of the Participation Agreement. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept all Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the Security Document, and to provide for the payments required to be made by the Lessor to the Vendor pursuant to the last paragraph of Paragraph 8 of the Participation Agreement under which the Vendor is acting as Agent, and so long as no event of default (or event which, with notice or lapse of time, or both, could constitute an event of default) under the Security Document shall have occurred and be continuing, any balance shall be paid to the Lessor not later than the first business day following such receipt by wire transfer of immediately available funds by the Vendor to such bank in the continental United States for the account of the Beneficiary as the Beneficiary shall from time to time have

directed the Vendor in writing, and if no such direction shall have been given, by check of the Vendor payable to the order of the Beneficiary and mailed to the Beneficiary by certified mail, postage prepaid, at 3 Gateway Center, 23rd Floor, Pittsburgh, Pennsylvania 15222, Attention: Manager of Lease Operations. If the Vendor shall not receive any rental payment under the first paragraph of Section 2 of the Lease when due, the Vendor shall notify the Lessor at the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the Security Document.

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

3. To protect the security afforded by this Assignment the Lessor agrees that, without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void; provided, however, that the Lessor may amend or supplement the Lease to provide for an increase or decrease of amounts due as rentals under Section 2 thereof and/or Casualty Values under Section 6 thereof provided that no such decrease shall reduce said amounts below that which are necessary to satisfy the obligations of the Lessor under the Security Document, notwithstanding any limitation of liability of the Lessor contained therein.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to

ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Vendor may deem to be necessary or advisable in the premises.

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

6. If an event of default under the Security Document shall occur and be continuing, the Vendor may declare all sums secured hereby immediately due and payable and may apply all such sums against the amounts due and payable under the Security Document.

7. The Lessor will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, re-register, re-record or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Vendor in order to confirm or further assure, the interests of the Vendor hereunder.

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

9. The Lessor will pay and discharge any and all claims, liens, charges or security interests (other than created by the Security Document) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor, or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the Security

Document or the Lease (but including tax liens arising out of the receipt of the income and proceeds from the Units) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments equal or superior to the Vendor's interest therein, unless the Lessor shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect such interests of the Vendor.

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

11. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the Security Document, or at such other address as the Vendor shall designate.

12. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no Event of Default under the Lease or event of default under the Security Document has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the Security Document, the Lessor may, so long as no event of default under the Security Document or Event of Default under the Lease has occurred and is continuing, exercise or enforce, or seek to exercise or enforce or avail itself of, such rights, powers, privileges, authorizations or benefits.

13. Notwithstanding any other provision of this Assignment (including, but not limited to, any provision of the first paragraph of Paragraph 1 and Paragraph 3 hereof), (a) the terms of this Assignment shall not impose any obligations on the Lessor in addition to the obligations of the Lessor under the Lease or under the Security Document or in any way limit the effect of the last paragraph of Article 4 of the Security Document, Article 21 of the Security Document or Section 22 of the Lease, (b) so long as there is

no event of default under the Security Document, and to the extent that the Vendor does not seek to receive and collect any Payments under the Lease in excess of the amounts required to discharge the obligations of the Lessor under the Security Document, the terms of this Assignment shall not limit or in any way affect the Lessor's right to receive and collect any Payments under the Lease in excess of the obligations of the Lessor under the Security Document, or empower the Vendor in any way to waive or release the Lessee's obligation to pay such excess amounts, and the Lessor shall continue to be empowered to ask, demand, sue for, collect and receive any and all of such excess amounts, but shall not take any action under subparagraph (b) of Section 9 of the Lease without the written consent of the Vendor and (c) each and all of the representations, undertakings and agreements herein 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 American Security and Trust Company, N.A., or for the purpose or with the intention of binding said trust company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Assignment is executed and delivered by the said trust company solely in the exercise of the powers expressly conferred upon said trust company 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 said trust company, except for wilful misconduct or gross negligence, or against the Beneficiary under the Trust Agreement or on account of any representation, undertaking or agreement of the Lessor or such Beneficiary (except as provided in Section 5.02 of the Trust Agreement), either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under it, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

14. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Vendor shall be deemed to be the original and all other counterparts shall be deemed to be duplicates thereof. It shall not be necessary that any counterpart be signed by

both parties so long as each party shall sign at least one counterpart.

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

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION, not in its
individual capacity but solely
as Agent,

by

Authorized Officer

[Seal]

Attest:

Authorized Officer

AMERICAN SECURITY AND TRUST
COMPANY, N.A., as Trustee,

by

Vice President and
Trust Officer

[Seal]

Attest:

Authorized Officer

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1976, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the seal of said association, that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Notary Public

[Notarial Seal]

My Commission expires

DISTRICT OF COLUMBIA,) ss.:

On this day of 1976, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is Vice President of AMERICAN SECURITY AND TRUST COMPANY, N.A., that one of the seals affixed to the foregoing instrument is the seal of said trust company, that said instrument was signed and sealed on behalf of said trust company by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said trust company.

Notary Public

[Notarial Seal]

My Commission expires

LESSEE'S CONSENT AND AGREEMENT

The undersigned, GRAND TRUNK WESTERN RAILROAD COMPANY, a corporation duly incorporated under the laws of the State of Michigan, the Lessee (hereinafter called the Lessee) named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease and Agreement (hereinafter called the Assignment), hereby (a) acknowledges receipt of a copy of the Assignment and (b) consents to all the terms and conditions of the Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (but not any indemnities or any sums payable to Westinghouse Credit Corporation under Paragraph 11 of the Participation Agreement referred to in the Assignment) in immediately available funds directly to First Security Bank of Utah, National Association, not in its individual capacity but solely as Agent (hereinafter called the Vendor), the assignee named in the Assignment, at 79 South Main Street, Salt Lake City, Utah 84111, Attention of Trust Department, Corporate Division (or at such other address as may be furnished in writing to the undersigned by the Vendor);

(2) The Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the undersigned under the Lease as though the Vendor were named therein as the Lessor;

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

(4) the Lease shall not, without the prior written consent of the Vendor, be amended, terminated or modified, nor shall any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Lease or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement may be executed in sev-

eral counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement shall be deemed to be a contract under the laws of the State of Michigan and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of June 1, 1976

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by

Vice President

[Corporate Seal]

Attest:

Attesting Officer

The foregoing Consent and Agreement is hereby accepted, as of the 1st day of June 1976.

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION, not in
its individual capacity but
solely as Agent,

by

Authorized Officer

[Seal]

Attest:

Authorized Officer

CONDITIONAL SALE AGREEMENT

Dated as of June 1, 1976

between

AMERICAN SECURITY AND TRUST COMPANY, N.A.,
as Trustee under a Trust Agreement
dated as of June 1, 1976, with
Westinghouse Credit Corporation

and

PULLMAN INCORPORATED
(Pullman Standard Division)

Conditional Sale Agreement

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CONDITIONAL SALE AGREEMENT dated as of June 1, 1976, between PULLMAN INCORPORATED (Pullman Standard Division) (hereinafter called the Vendor or Builder as more particularly set forth in Article 1 hereof) and AMERICAN SECURITY AND TRUST COMPANY, N.A., as Trustee (hereinafter called the Vendee) under a Trust Agreement dated as of June 1, 1976 (hereinafter called the Trust Agreement), with Westinghouse Credit Corporation (hereinafter called the Beneficiary).

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

WHEREAS the Vendee is entering into a lease (hereinafter called the Lease) dated as of the date hereof with GRAND TRUNK WESTERN RAILROAD COMPANY (hereinafter called the Lessee) of the Equipment, in substantially the form annexed hereto as Annex C; and

WHEREAS First Security Bank of Utah, National Association (hereinafter sometimes called the Assignee or the Vendor as more particularly set forth in Article 1 hereof), has agreed to invest in the Conditional Sale Indebtedness (as hereinafter defined) pursuant to the Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement), among the Assignee, the Lessee, the Vendee, the Beneficiary and the Investors for whom the Assignee is acting as agent.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Assignment; Definitions. The parties hereto contemplate that the Vendee will furnish that portion of the Purchase Price (as hereinafter defined) for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof between the Builder and the Assignee

(such Agreement and Assignment being hereinafter called the Assignment).

The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

In case of such assignment, the Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title, and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease and Agreement in the form of Annex D hereto (hereinafter called the Lease Assignment) and the Lessee shall consent thereto pursuant to a Consent and Agreement in the form attached to Annex D hereto (hereinafter called the Consent).

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Annex B hereto and will sell and deliver to the Vendee, and the Vendee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided) the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing among the Builder, the Vendee and the Lessee (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, and each such unit will be new railroad equipment.

The Builder hereby represents to the Vendee that neither the execution and delivery of this Agreement by the Builder nor the performance by the Builder as contemplated herein is pursuant to or in furtherance of any plan, arrangement or understanding made on behalf of the Builder and arising out of, made in connection with or in any manner related to any prior, existing or presently contemplated investment in, transaction with or relationship with the Assignee with respect to any employee benefit plan (as defined in the Employee Retirement Income Security Act of 1974) of the Builder or any corporation directly or indirectly controlled by the Builder.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of the Equipment to the Vendee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until this Agreement and the Lease have been filed pursuant to Section 20c of the Interstate Commerce Act; and provided, further, however, that the Builder shall not deliver any unit of Equipment hereunder (i) subsequent to written notification to it by the Vendee or Assignee of the commencement of any proceedings specified in clauses (c) or (d) of Article 15 hereof or the occurrence of any event of default (as described in Article 15 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default, or (ii) unless (x) the Builder shall have been notified in writing by the Assignee that the conditions contained in Paragraph 6 of the Participation Agreement have been met and (y) the Builder shall have been notified in writing by the Vendee that the conditions contained in Paragraph 7 of the Participation Agreement have been met, or (iii) if the delivery of any such unit of Equipment would cause the aggregate Purchase Price (as hereinafter defined) of the units of Equipment for which delivery and acceptance has theretofore and is then being made to exceed the Maximum Purchase Price set forth in Item 5 of Annex A to this Agreement.

Any Equipment not delivered and accepted hereunder on or prior to December 31, 1976, by reason of the conditions, notifications and/or events set forth in this Article 3 or otherwise shall be excluded from this Agreement and the Vendee shall be relieved of its obligation to purchase and

pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. Pursuant to the Participation Agreement the Lessee has agreed to purchase such excluded Equipment from the Builder.

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

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who may be employees of the Lessee) and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee (who may be an employee of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 9 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 13 hereof.

On delivery and acceptance of each such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 13 hereof.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder

and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased plus freight and storage charges, if any, and any applicable sales taxes, all as set forth in the Builder's invoice or invoices delivered to the Vendee (such invoice or invoices being hereinafter called the Invoices).

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Vendee as is provided in Item 2 of Annex A hereto (each such group being hereinafter called a Group). The term "Closing Date" with respect to any Group shall mean such date (not earlier than August 15, 1976, and not later than December 31, 1976, such later date being herein called the Cut-Off Date) as shall be fixed by the Lessee, but a date not more than 30 business days following presentation by the Builder to the Vendee of the Invoices (with copies thereof to the Lessee) and of the Certificate or Certificates of Acceptance for a Group. Written notice of each Closing Date shall be delivered to the Vendee, the Builder, the Beneficiary and the Assignee by the Lessee at least six business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in Salt Lake City, Utah, or New York, New York, are authorized or obligated to remain closed.

The Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in immediately available Salt Lake City or Federal funds by wire transfer, not later than 11:00 a.m., Salt Lake City time, to the Vendor, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group an amount equal to 31.76% of the aggregate Purchase Price of such Group; and

(b) in 40 semiannual instalments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (herein called the Conditional Sale Indebtedness) shall be payable on each

January 15 and July 15, commencing July 15, 1977, to and including January 15, 1997 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.25% per annum. Such interest shall be payable, to the extent accrued, on January 15, 1977, and on each Payment Date thereafter. The instalments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest on each such Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto and such instalments of principal shall completely amortize the Conditional Sale Indebtedness. The Vendee will furnish to the Vendor, the Beneficiary and the Lessee promptly after each Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

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

The Vendee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 10.25% per annum.

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

The Builder shall deliver to the Vendee on the Closing Date with respect to any Group the documents required to be furnished by the Builder pursuant to Section 4 of the Assignment in respect of such Group.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 15 and 16 hereof), but not limiting the effect of Article 21 hereof, it is understood and agreed by the Vendor

that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, including any liability arising out of or in connection with the performance of its obligations hereunder and excluding only the obligations set forth in the proviso in the third paragraph of Article 12 hereof and the payments to be made pursuant to subparagraph (a) of the third paragraph of this Article, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment"; and such payments shall be made by the Vendee only to the extent that the Vendee (which term as used in this paragraph includes the Vendor to the extent payments under the Lease are made to the Vendor as contemplated therein and any assignee of the Vendee) shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. In addition, the Vendor agrees that the Vendee (i) makes no representation or warranty, and is not responsible for, the due execution, validity or enforceability of the Lease or any document relating thereto (except for the due authorization, execution and delivery thereof by the Vendee) or of any of the Lessee's obligations thereunder and (ii) shall have no obligation or liability whatsoever to see to or be responsible for the performance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Equipment and to the Vendor's rights under the Lease. As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 15 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under Section 9 thereof or any other provision of the Lease and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition (it being understood and agreed that all payments of "income and proceeds from the Equipment", received pursuant to this subclause (i) in excess of the unpaid Conditional Sale Indebtedness and all other payments due to the Vendor under this Agreement shall be paid to the Vendee) and (ii) at any

other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Vendee or any assignee of the Vendee and as shall equal the portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. Notwithstanding anything to the contrary contained in Article 15 or 16 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder or to proceed against the Lessee, under the Lease or the Consent, with any excess over the amount due and payable hereunder (without regard to any limitation of liability hereunder of the Vendee) being promptly remitted to the Vendee.

ARTICLE 5. Security Interest in the Equipment.

The Vendor shall and hereby does retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease.

Except as otherwise specifically provided in Arti-

and vest in the Vendee without further transfer or action in the part of the Vendor. However, the Vendor, if so

cle 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to requested by the Vendee at that time, will (a) execute an instrument or instruments releasing its security interest in the Equipment to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument or instruments to the Vendee at its address referred to in Article 20 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

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ARTICLE 6. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than gross receipts taxes [except gross receipt taxes in the nature of or in lieu of sales or use or rental taxes], taxes measured by net income, excess profits taxes and similar taxes or general corporation, franchise or like taxes measured by Vendor's capital, capital stock or net worth) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which such impositions the Vendee assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment. The Vendee will also pay promptly all impositions which may

be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Vendor solely by reason of its ownership thereof (except as provided above) and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the security interest of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest or property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of independent counsel for the Vendor) or unless the Vendee shall have approved in writing the payment thereof.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order, repair and condition, reasonable wear and tear excepted.

In the event that any unit of the Equipment shall be or become worn out, 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 the Lease or for an indefinite period, but only if such requisition for an indefinite period shall be in effect on the expiration date of the Lease, 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 the Lease (such occurrences being herein called Casualty Occurrences), the Vendee shall promptly cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendor a sum equal to the Casu-

alty Value (as hereinafter defined in this Article 7) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Assignee pursuant to this paragraph shall be applied (after the payment of the interest and principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each principal instalment, each instalment of the Conditional Sale Indebtedness and the Vendee will promptly furnish to the Assignee, the Beneficiary and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Assignee may request.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest, and the release of the Vendor's security interest, in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article 7 with respect to any other unit), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of the Purchase Price in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of the Equipment.

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence, the Vendor shall, subject to the Vendor having received payment of the Casualty Value hereunder, pay such insurance proceeds or condemnation payments to the

Vendee. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. Reports and Inspections. On or before March 31 in each year, commencing with the year 1978, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment then subject to this Agreement, the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) and setting forth such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 9 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Vendee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 9. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the road number of the Lessee as set forth in Annex B hereto, 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", 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 Vendor's interest in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement pre-

viously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

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

ARTICLE 10. Compliance with Laws and Rules. During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all applicable laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or modification of or to any part on any unit of the Equipment, the Vendee will conform therewith at its own expense; provided, however, that the Vendee or the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 11. Possession and Use. The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The parties hereto acknowledge that the Vendee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinated

and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement, subject to the provisions of Section 11 of the Lease. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor.

Subject to the provisions of the preceding paragraph of this Article 10, the Equipment may be used upon the lines of railroad owned or operated by the Lessee or any affiliate of the Lessee (or any other railroad company approved by the Vendor) or upon lines of railroad 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 the Equipment may be used upon connecting and other carriers in the usual interchange of traffic or equipment, but only upon and subject to all the terms and conditions of this Agreement; provided, however, that the Vendee shall not assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America.

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

ARTICLE 12. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge, security interest or other encumbrance upon or with respect to the Equipment, or any unit thereof, or the Vendee's interests in the Lease and the payments to be made thereunder equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate

legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

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

The foregoing provisions of this Article 12 shall be subject to the limitations set forth in the last paragraph of Article 4 hereof and the provisions of Article 21 hereof; provided, however, that the Vendee will pay or discharge any and all claims, liens, charges, security interests or other encumbrances claimed by any party from, through or under the Vendee, the Beneficiary or their successors or assigns, not arising out of the transactions contemplated hereby (but including tax liens arising out of the receipt of the income and proceeds from the Equipment), equal or superior to the Vendor's security interest, which, if unpaid, might in the reasonable opinion of the Vendor become a lien, charge, security interest or other encumbrance on or with respect to the Equipment, or any unit thereof, or the Vendee's or Beneficiary's interests in the Lease and the payments to be made thereunder, but the Vendee shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement or in and to the Lease and the payments to be made thereunder.

ARTICLE 13. Indemnities and Warranties. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, except those resulting from gross negligence or wilfull misconduct of the Vendor, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or

as the result of the entering into or the performance of this Agreement, the retention by the Vendor of a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any accident, in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period while a security interest therein remains in the Vendor or during the period of the transfer of such security interest in the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except, however, in the case of the Builder, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the release of the security interest in, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

The Vendee will bear the responsibility for and risk of, and shall not be released from its obligations hereunder (except as provided in Articles 4, 7 and 21 hereof) in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

The Builder represents and warrants to the Vendee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Builder will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under this Agreement, the Assignee under the Assignment and the rights of the Lessee under the Lease.

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

ARTICLE 14. Assignments. The Vendee will not (a) except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement without the prior written consent of the Vendor except as provided in Article VI or VII of the Trust Agreement.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 13 hereof and Annex A hereto, or relieve the Vendee of its obligations to the Builder contained in Articles 2, 3, 4 and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is intended to survive an assignment.

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

The Vendee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Vendee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to the entire unpaid indebtedness in respect of the Conditional Sale Indebtedness, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time

owing to the Vendee or the Lessee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Lessee, as the case may be, against and only against the Builder.

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Vendee (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder and such default shall continue for 15 business days after the date such payment became due and payable; or

(b) the Vendee (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) shall, for more than 30 days after the Vendor shall have demanded in writing by notice delivered to the Vendee performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

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

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

(e) the Vendee shall make or permit any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment and the Vendee shall, for more than 30 days after demand in writing by the Vendor, fail to secure a reassignment or retransfer to the Vendee of such Agreement, interest or right; or

(f) an Event of Default shall have occurred under the Lease;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee, the Beneficiary and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) cause the Lease immediately upon

such notice, except as provided in the second paragraph of Section 11 thereof, to terminate (and the Vendee acknowledges the right of the Vendor to terminate the Lease), but without affecting the indemnities which by the provisions of the Lease survive its termination and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, subject to the provisions of Articles 4 and 21 hereof, wherever situated. The Vendee shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

Anything in this Agreement to the contrary notwithstanding, in the case of any event of default occurring due to the failure of the Lessee to make a payment of rental pursuant to Section 2 of the Lease, the Vendor shall not, without the prior written consent of the Beneficiary, exercise any remedy or remedies provided herein or in the Lease in respect thereof during a 30-day period next following the giving of written notice to the Beneficiary constituting a Declaration of Default as provided above. During such 30-day period the Beneficiary shall have the right to cure on behalf of the Lessee the Event of Default under the Lease resulting from such failure to make the rental payment. Such right to cure may be exercised by the Beneficiary any number of times throughout the term of the Lease whether or not the Lessee shall at any time repay any amounts advanced in order to cure one or more such defaults, and each such separate default occurring subsequent to a default which has been so cured by the Beneficiary shall be subject to the notice requirement and the 30-day period during which the Vendor may not exercise its remedies as hereinabove provided. No party exercising any right to cure an event of default pursuant to this paragraph shall obtain any lien, charge or

encumbrance of any kind upon the Equipment or any rentals or other amounts payable therefor under the Lease in respect of any sums paid in connection with the exercise of such right or the curing of such default, nor shall any claims of such party against the Lessee or the repayment of such sums so advanced impair the prior right of the Vendor to the sums payable by the Lessee under the Lease. The rights provided in this paragraph shall be in addition to, and shall not be construed to limit, the rights of the Vendee set forth in the fourth paragraph of Article 16 hereof.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Vendee, the Beneficiary and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Vendee or any other person and for such purpose may enter upon the premises of the Vendee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee or the Lessee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Vendee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, causing prompt telegraphic and written notice to be given to the Association of American Railroads and all railroads to which any unit or units of the Equipment have been interchanged to return the unit or units so interchanged) cause the Equipment to be placed upon such storage tracks of the Lessee as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks at the risk of the Vendee without charge for insurance, rent or storage for a period of 270 days after all the Equipment has been assembled on such tracks; and

(c) cause the Equipment to be transported to any reasonable 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 Vendor.

During any storage period, the Vendee will, at its own cost and expense, insure, maintain and keep each such unit in good order and repair and will permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers, lessees and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Beneficiary by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30

days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon not less than 15 days' prior written notice to the Vendee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Lessee or any other party claiming from, through or under the Vendee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's rea-

sonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fee and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor or the Vendee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee, the Beneficiary and the Lessee shall be given written notice of such sale not less than 15 days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Vendee to purchase or provide a purchaser, within 15 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee (except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expe-

dient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Vendee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee.

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

Except as otherwise provided in this Agreement, the Vendee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more

units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

ARTICLE 18. Recording. The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act; and the Vendee will from time to time cause to be done and performed any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish or cause to be furnished to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 19. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Except for the Participation Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Vendee with respect to the Equipment and supersedes all other agreements, oral

or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Vendee.

ARTICLE 20. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at the following addresses

(a) to the Vendor, at 79 South Main Street, Salt Lake City, Utah 84111, attention of Trust Department, Corporate Division, with a copy to ITEL Leasing Corporation, One Embarcadero Center, San Francisco, California 94111, attention of Contract Administration,

(b) to the Vendee, at 15th Street and Pennsylvania Avenue, N.W., Washington, D. C. 20013, attention of Corporate Trust Officer, with a copy to the Beneficiary and a copy to ITEL Leasing Corporation, One Embarcadero Center, San Francisco, California 94111, attention of Contract Administration,

(c) to the Beneficiary, at 3 Gateway Center, 23d Floor, Pittsburgh, Pennsylvania 15222, attention of Manager of Lease Operations,

(d) to the Builder, at the address specified in Item 1 of Annex A hereto,

(e) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, and to the Lessee, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 21. Immunities; Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto or of the Beneficiary, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability,

whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the second and seventh and eighth paragraphs of Article 16 and under Articles 3, 6, 7 (other than the second and third sentences of the second paragraph thereof to the extent requiring delivery of certificates and payment schedules as therein provided), 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by American Security and Trust Company, N.A., or for the purpose or with the intention of binding such Trust Company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement and this Agreement is executed and delivered by such Trust Company solely in the exercise of the powers expressly conferred upon such Trust Company 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 such Trust Company or the Beneficiary (except as provided in Section 5.02 of the Trust Agreement) or on account of any representation, undertaking or agreement of such Trust Company, as Vendee, or the Beneficiary (except as provided in Section 5.02 of the Trust Agreement) either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

The Vendee agrees that it will not enter into any amendment to or modification of the Trust Agreement except as provided in Article VIII thereof.

ARTICLE 22. Law Governing. The Vendee warrants that its chief place of business is located in the District of Columbia. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the District of Columbia; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, such counterparts together constituting but one and the same contract, but the counterpart delivered to the Assignee pursuant to the Assignment shall be deemed the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

PULLMAN INCORPORATED
(Pullman Standard Division),

by

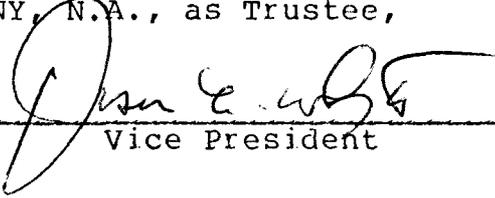
[CORPORATE SEAL]

Vice President-Freight Unit

Attest:

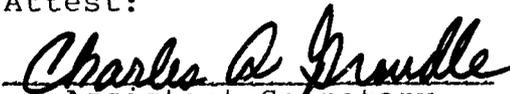
Assistant Secretary

AMERICAN SECURITY AND TRUST
COMPANY, N.A., as Trustee,

by 
Vice President

[SEAL]

Attest:


Assistant Secretary

SCHEDULE I TO CONDITIONAL SALE AGREEMENT

Allocation Schedule of Each
\$1,000,000 of Conditional Sale Indebtedness
Payable in Instalments
from July 15, 1977 to January 15, 1997

<u>Date</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Total Payment</u>
July 15, 1977	46,250	18,721	64,970.99
January 15, 1978	45,384	19,587	64,970.99
July 15, 1978	44,478	20,493	64,970.99
January 15, 1979	43,530	21,441	64,970.99
July 15, 1979	42,539	22,432	64,970.99
January 15, 1980	41,501	23,470	64,970.99
July 15, 1980	40,416	24,555	64,970.99
January 15, 1981	39,280	25,691	64,970.99
July 15, 1981	38,092	26,879	64,970.99
January 15, 1982	36,849	28,122	64,970.99
July 15, 1982	35,548	29,423	64,970.99
January 15, 1983	34,187	30,784	64,970.99
July 15, 1983	32,764	32,207	64,970.99
January 15, 1984	31,274	33,697	64,970.99
July 15, 1984	29,716	35,255	64,970.99
January 15, 1985	28,085	36,886	64,970.99
July 15, 1985	26,379	38,592	64,970.99
January 15, 1986	24,594	40,377	64,970.99
July 15, 1986	22,727	21,263	43,989.27
January 15, 1987	21,743	22,246	43,989.27
July 15, 1987	20,715	23,275	43,989.27
January 15, 1988	19,638	23,680	43,318.05
July 15, 1988	18,543	24,775	43,318.05
January 15, 1989	17,397	24,833	42,229.55
July 15, 1989	16,248	25,981	42,229.55
January 15, 1990	15,047	26,041	41,088.07
July 15, 1990	13,842	27,246	41,088.07
January 15, 1991	12,582	27,309	39,891.04
July 15, 1991	11,319	28,572	39,891.04
January 15, 1992	9,998	22,489	32,486.80
July 15, 1992	8,958	23,529	32,486.80
January 15, 1993	7,870	24,617	32,486.80
July 15, 1993	6,731	25,756	32,486.80
January 15, 1994	5,540	14,866	20,405.34
July 15, 1994	4,852	15,553	20,405.34
January 15, 1995	4,133	14,946	19,079.40
July 15, 1995	3,442	15,638	19,079.40
January 15, 1996	2,718	15,674	18,392.36
July 15, 1996	1,993	16,399	18,392.36
January 15, 1997	1,235	26,704	27,938.65
TOTAL	\$ 908,139	\$1,000,000	\$1,908,139.00

Annex A

to

Conditional Sale Agreement

- Item 1: 200 South Michigan Avenue, Chicago, Illinois 60604.
- Item 2: The Equipment shall be settled for in not more than four Groups of units of the Equipment delivered to and accepted by the Vendee unless a greater number shall be agreed to by the parties hereto.
- Item 3: The Builder warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Article 2 of the Conditional Sale Agreement to which this Schedule A is attached (hereinafter called the Agreement) and warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by the Builder) and workmanship under normal use and service, the Builder's obligation under this Item 3 being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit to the Vendee, be returned to the Builder with transportation charges prepaid and which the Builder's examination shall disclose to its reasonable satisfaction to have been thus defective.

The foregoing warranty of the Builder is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and of all other obligations or liabilities on the part of the Builder, except for its obligations under Articles 2, 3, 4 and 13 of the Agreement, and the Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid. It is further understood that in no event shall the Builder be liable for indirect or consequential damages of any kind.

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

Item 4: Except in case of designs, processes or combinations specified by the Lessee and not developed or purported to be developed by the Builder, and articles and materials specified by the Lessee and not manufactured by the Builder, the Builder agrees to indemnify, protect and hold harmless the Vendee, and the Lessee, the Vendor and the Beneficiary, as third party beneficiaries, from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Lessee, the Vendor, the Vendee and the Beneficiary because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process, combination, article or material infringing or claimed to infringe on any patent or other right. The Lessee likewise will (as provided in Section 8 of the Lease) indemnify, protect and hold harmless the Builder from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Builder because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process or combination specified by the Lessee and not developed or purported to be developed by the Builder, or article or material specified by the Lessee and not manufactured by the Builder, which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Vendee and the Lessee every claim, right and cause of action which the Builder has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article or material specified by the Lessee and used by the Builder

in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and the Builder further agrees to execute and deliver to the Vendee and the Lessee all and every such further assurances as may be reasonably requested by them more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Vendee will give notice to the Builder of any claim known to the Vendee on the basis of which liability may be charged against the Builder hereunder.

- Item 5: The Maximum Purchase Price referred to in Article 3 of the Conditional Sale Agreement to which this Annex A is attached is \$8,797,000.
- Item 6: The Maximum Conditional Sale Indebtedness referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is \$6,003,072.80.

Annex B

to

Conditional Sale Agreement

<u>Type</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
100-ton covered hopper cars; AAR Designation: LO	Pullman's Number 9866	Butler, Pennsylvania	150	GTW 138200-138349	\$ 29,000	\$4,350,000	Prior to December 31, 1976, at Butler, Pennsylvania
100-ton box cars; AAR Designation: XP	Pullman's Number 9834	Bessemer, Alabama	100	GTW 375400-375499	\$ 37,686.44	\$3,768,644	Prior to December 31, 1976, at Bessemer, Alabama
100-ton box cars; AAR Designation: XL	Pullman's Number 9834	Bessemer, Alabama	18	GTW 375500-375517	\$ 37,686.44	\$ 678,356	Prior to December 31, 1976, at Bessemer, Alabama

ANNEX C
to the
CONDITIONAL SALE
AGREEMENT

LEASE OF RAILROAD EQUIPMENT

Dated as of June 1, 1976

Between

GRAND TRUNK WESTERN RAILROAD COMPANY

and

AMERICAN SECURITY AND TRUST COMPANY, N.A.,
as Owner Trustee

LEASE OF RAILROAD EQUIPMENT

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* This Table of Contents has been included in this document for convenience 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 June 1, 1976, between GRAND TRUNK WESTERN RAILROAD COMPANY (hereinafter called the Lessee) and AMERICAN SECURITY AND TRUST COMPANY, N.A., a District of Columbia corporation, not in its individual capacity but solely as Trustee (hereinafter called the Lessor or the Vendee) under a Trust Agreement dated as of June 1, 1976 (hereinafter called the Trust Agreement), with WESTINGHOUSE CREDIT CORPORATION (hereinafter called the Beneficiary).

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Document) with Pullman Incorporated (Pullman Standard Division) (hereinafter called the Builder), 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 Units);

WHEREAS the Builder is assigning its interests in the Security Document pursuant to an Agreement and Assignment (hereinafter called the Assignment) to First Security Bank of Utah, National Association, as Agent, under the terms of a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessee, the Lessor, the Beneficiary and the parties named in Schedule A thereto (said national association, as so acting, being hereinafter, together with its successors and assigns, called the Vendor; and said parties for whom it is acting being hereinafter called the Investors);

WHEREAS the Lessee desires to lease such number of Units as are delivered and accepted and settled for under the Security Document at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the Lessor will assign this Lease for security to the Vendor pursuant to an Assignment of Lease and Agreement (hereinafter called the Lease Assignment) and the Lessee will consent to the Lease Assignment pursuant

to a Lessee's Consent and Agreement (hereinafter called the Consent);

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, but subject to all the rights and remedies of the Vendor under the Security Document:

Section 1. Delivery and Acceptance of Units.

The Lessor will cause each Unit to be tendered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Document. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit and execute and deliver to the Lessor and the Builder a certificate of acceptance and delivery (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.

Section 2. Rental. The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease two interim and 40 consecutive semiannual payments. The interim payments are payable, respectively, on January 15, 1977, and the Cut-Off Date (as defined in the Participation Agreement) (or as promptly thereafter as practicable). The 40 semi-annual payments are payable on January 15 and July 15 in each year, commencing July 15, 1977, to and including January 15, 1997. The interim payment on January 15, 1977, shall be in an amount equal to the product of the Purchase Price (as such term is defined in the Security Document) for each Unit subject to the Lease multiplied by .0246322% for each day (computed on the basis of a 360-day year of twelve 30-day months) elapsed from and including the date such Unit is settled for under the Security Document to but not including January 15, 1977. The interim payment payable on the Cut-Off Date (or as promptly thereafter as practicable) shall be in an amount equal to the amount payable by the Owner Trustee to the Agent pursuant to clause (a) of the last paragraph of Paragraph 8 of the Participation Agreement. The interim payment payable on January 15, 1977, shall be increased by that additional amount necessary to enable the Lessor to make the payments provided for in clause (b) of the last paragraph of

Paragraph 8 of the Participation Agreement. The first 30 semiannual rental payments shall each be in amount equal to 4.4338% of the Purchase Price of each such Unit then subject to this Lease, and the last 10 such payments shall each be in an amount equal to 2.2169% of such Purchase Price.

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 Salt Lake, City, Utah, are authorized or obligated to remain closed.

The Lessee agrees to make each payment provided for in this Lease in immediately available funds at, and not later than 11:00 A.M., local time, in the city where such payment is to be made.

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 under the Security Document, or 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 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 whatever 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 properly 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 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, 9 and 12 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due hereunder.

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 Document. If an event of default shall occur under the Security Document the Vendor may, except as provided in the second paragraph of Section 11 hereof, terminate this Lease (or rescind its termination), all as provided therein.

Section 4. Identification Marks. The Lessee, so long as this Lease shall remain in effect, will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, the legend required by Article 9 of the Security Document or other appropriate markings 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 Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the Vendor under the Security Document. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such legend shall have been so marked on both sides thereof and will replace promptly any such legend which may be removed, obliterated, 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 filed, recorded

and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to that effect and to the further effect that such filing, recordation and deposit will protect the Vendor's and the Lessor's interests in such Units and that no filing, recording, depositing or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

Except as above provided, the Lessee, so long as this Lease shall remain in effect, will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

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, Federal or foreign taxes (other than any United States Federal income tax and, to the extent that the Lessor receives credit therefor against its United States Federal income tax liability, any foreign income tax payable by the Lessor in consequence of the receipt of payments provided herein 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, up to the amount of any such taxes which would be payable to the state and city in which the Beneficiary has its principal place of business without apportionment to any other state or city, 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), 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 or the Security Document, all

of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. 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 such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions 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 or under the Security Document. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor; provided, however, that the Lessee shall not be obligated to reimburse the Lessor for any impositions so paid unless the Lessor shall have been legally liable, with respect thereto (as evidenced by an opinion of independent counsel for the Lessor) or unless the Lessee shall have approved in writing the payment thereof.

In the event that the Lessor shall become obligated to make any payment to the Vendor pursuant to Article 6 of the Security Document not covered by the foregoing paragraph of this Section 5, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said Article 6.

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 and the Vendor in the Units as shall be reasonably satisfactory to the Lessor and the Vendor or, where not so permitted, will notify the Lessor and the Vendor of such requirement and will prepare and deliver such reports to the Lessor and the Vendor within a reasonable time prior to the time such reports are to be filed in such manner as shall be satisfactory to the Lessor and the Vendor.

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 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, 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 this Lease or for an indefinite period, but only if such requisition for an indefinite period shall be in effect on the expiration date of this Lease, 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 this Lease (each such occurrence being hereinafter called a Casualty Occurrence) prior to the return of such Unit in the manner set forth in Section 13 hereof, the Lessee shall, within thirty days after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor and the Vendor 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 the rental payment date listed in Table 1 of Schedule B hereto next succeeding such notice. On such rental payment date 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 an amount equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with Schedule B hereto. 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 this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit. 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 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 the sum of (a) that percentage of the Purchase Price of such Unit as is set forth in Table 1 of Schedule B hereto opposite such date with respect to such Unit plus (b) if applicable to such Unit, that percentage of the Purchase Price thereof as set forth in Table 2 of said Schedule B with respect to such Unit.

Whenever any Unit shall suffer a Casualty Occurrence at the end of the term of this Lease or after termination of this Lease and before such Unit shall have been returned in the manner provided in Section 13 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 such 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 the Equipment to the Lessor, at its own expense, cause to be carried and maintained, with independent insurance carriers or by self-insurance, property insurance in respect of the Units at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it, and the benefits thereof shall be payable to the Vendor, the Lessor and the Lessee, as their interests may appear,

so long as the indebtedness, if any, evidenced by the Security Document shall not have been paid in full, and thereafter to the Lessor and the Lessee as their interests may appear. If the Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, so long as an Event of Default shall not have occurred and be continuing, 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 or condemnation payments 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. Annual Reports. On or before March 31 in each year, commencing with the calendar year 1978, the Lessee will cause to be furnished to the Lessor, the Beneficiary, the Vendor and ITEL Leasing Corporation (at the addresses shown in Section 17 hereof), an accurate statement, as of the preceding December 31, showing the amount, description and numbers of the Units (a) then leased hereunder and/or covered by the Security Document, (b) that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease in the case of the first such statement) and (c) setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, and stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by Section 4 hereof and by Article 9 of the Security Document shall have been preserved or replaced. The Lessor, the Vendor and the Beneficiary, respectively, 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, the Vendor or the Beneficiary, respectively, may request during the continuance of this Lease.

The Lessee will furnish to the Beneficiary and each Investor who shall request the same (i) within 90 days after the end of each of the first three quarterly fiscal periods of the Lessee, statements of income and surplus of the Lessee

and its consolidated subsidiaries as of the close of such periods, in reasonable detail and certified by any Vice President or the Treasurer of the Lessee, (ii) within 120 days after the close of each of the fiscal years of the Lessee, balance sheets of the Lessee and its consolidated subsidiaries as of the close of such fiscal years, together with the related statements of income and surplus and source and application of funds for such fiscal years all in reasonable detail and certified by a recognized national firm of independent public accountants, (iii) promptly upon the filing of the same, the reports of the Lessee filed with the Interstate Commerce Commission on Form R-1 and (iv) from time to time such other information as the Lessor or the Beneficiary may reasonably request. Within 120 days after the close of each fiscal year of the Lessee, the Lessee will furnish to the Beneficiary, the Vendor and each Investor requesting the same, a certificate of the Lessee, signed by a principal financial officer, to the effect that the signer has reviewed the relevant terms of this Lease, the Participation Agreement and the Security Document and has made, or caused to be made under his supervision, a review of the transactions and condition of the Lessee 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 or an Event of Default hereunder or which, after notice or lapse of time or both, would constitute such a default or 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 has taken or is taking or proposes to take with respect thereto. The Lessee will furnish the Lessor from time to time on request such information as the Lessee or the Lessor may be required to furnish to any person pursuant to the Security Document.

Section 8. 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 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 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 to the Security Document; 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 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 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, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules 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 of any Unit, the Lessee will conform therewith at its own expense; pro-

vided, 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 counsel for the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor, respectively, under this Lease or under the Security Document. 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, the Builder (to the extent provided in Item 4 of Annex A to the Security Document) and the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, except those resulting from gross negligence or willful misconduct of the Lessor, the Builder or the Vendor, 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 Security Document, the Participation 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, (iii) the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit, (iv) 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 Section 13 of this Lease or (v) the transfer of title to the Equipment by the Vendor pursuant to any provision of the Security Document. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the delivery of the Equipment or the full payment and performance of all obligations under this Lease or the expiration or termination of the term of this Lease; provided, however, that the foregoing indemnification shall not apply to any failure of payment of any of the principal of or interest on the Conditional Sale Indebtedness (as defined in the Security Document) or the matters referred to in the proviso to the last paragraph of

Article 12 of the Security Document. The indemnities arising under this paragraph shall not be deemed to operate as a guaranty of the residual value of the Units or as a guaranty of the payment of the principal of or interest on the Conditional Sale Indebtedness.

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

Section 9. 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 12 hereof and such default shall continue for 10 business days;

B. default shall be made in the observance or performance of any other of the covenants, conditions and agreements, terms or conditions 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;

C. any representation or warranty made by the Lessee herein or in any statement or certificate furnished to the Lessor or its assigns pursuant to or in connection with this Lease, the Security Document or the Participation Agreement proves untrue in any material respect as of the date of issuance or making thereof;

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 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 shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings (whether or not subject to ratification) 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 for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease, the Participation Agreement or the Consent 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, 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 shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

F. 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 the Units, or any thereof;

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

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance

by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; 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 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 the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals 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 rentals 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 6.00% 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; 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 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 10. Return of Units upon Default. If this Lease shall terminate pursuant to Section 9 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 (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) place such Units upon such storage tracks of the Lessee 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, for a period of 270 days after all the Units have been assembled on such tracks; and

(c) transport the same to any place on the lines of railroad operated by it or any of its affiliates or to 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 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 at any reasonable time; 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. 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 per diem

interchange rate for 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 obligations of the Lessee under the foregoing provisions of this Section 10, 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 whomsoever shall be in possession of such Unit at the time.

Section 11. Assignment; Possession and Use; Discharge of Liens. 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. The Lessee hereby acknowledges notice of the Lease Assignment and agrees to make payments to the Vendor as provided therein. The rights of the Lessor hereunder (including, but not limited to, the rights under Sections 5, 6, 8 and 9 hereof and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Vendor as assignee thereunder in the manner and to the extent therein provided. In the event that, pursuant to the Lease Assignment and the rights of the Vendor thereunder and under the Security Document, the Vendor shall at any time cause this Lease to be terminated, the Lessee agrees that following the payment in full by the Vendee of the entire unpaid Conditional Sale Indebtedness (as defined in the Security Document) together with interest thereon, the Vendee may enforce compliance by the Lessee with its covenants and agreements under this Lease.

So long as the Lessee shall not be in default under this Lease, and the Lessee is complying with the provisions of the Consent and so long as the Vendor is entitled to apply the Payments (as defined therein) as provided in the Lease Assignment, 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.

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 or the Vendor after the date hereof 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, 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 upon lines of railroad owned or operated by it or any such affiliate or upon the lines of railroad 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 and equipment, but only upon and subject to all the terms and conditions of this Lease, including the last paragraph of this Section 11, and the Security Document. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this Section 11 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 railroad properties 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.

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 12. 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 six months prior to the end of the original term of this Lease or the first extended term hereof, (a) to purchase some or all of the Units covered by the Lease at the end of the original term or such renewal term of this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of such term or (b) to extend the term of this Lease in respect of all, but not fewer than all, the Units covered by this Lease for an additional five-year period commencing on the scheduled expiration of the original term or the extended term of this Lease, as the case may be, provided that the Lessee may not so elect to extend the term of this Lease for more than two such additional five-year periods, at a rental payable in semiannual payments, in an amount equal to the "Fair Market Rental" of such Units as of the commencement of such extended term, such semiannual payments to be made on January 15 and July 15 in each year of the applicable extended term.

Fair Market Value or 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 buyer-user or lessee, as the case may be (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing seller or lessor under no compulsion to sell or lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

If on or before four 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 Fair Market Value of the Units, as the case may be, 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 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 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. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental or Fair Market Value, as the case may be, and shall, subject to prior agreement by the Lessor and the Lessee as contemplated by the first sentence of this paragraph, 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 by the Lessee.

Section 13. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the original or any extended term of this 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 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 three months and transport the same, at any time within such three-month period, to any connecting carrier 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 at any reasonable time; 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 13 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, and/or the applicable rules of any governmental agency or other organization with jurisdiction and (iii) 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 8 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 transport the Units.

All amounts earned in respect of the Units after the end of the term 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 the end of the term of this Lease, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the per diem interchange rate for such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

Section 14. 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 15. Recording; Expenses. The Lessee, at its own expense, will cause this Lease, the Security Document and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and recorded with the Registrar of Canada in accordance with Section 86 of the National Railway Act of Canada. The Lessee will undertake the filing, recording and depositing and refiling, re-recording and redepositing required of the Lessor under the Security Document and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, re-register, re-record or redeposit 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 or the assignment hereof to the Vendor, or the Security Document; and the Lessee will promptly furnish to the Vendor and the Lessor evidences of all such filing, registering, recording or depositing, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any unit.

Section 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations when due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 10.25% 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 17. 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

15th Street and Pennsylvania Avenue N.W.,

Washington, D.C. 20013,
Attention of Corporate Trust Officer,
with a copy to the Beneficiary,
if to the Lessee, at

131 West Lafayette Boulevard,
Detroit, Michigan 48226,

Attention of Secretary,
with a copy to

Canadian National Railway Company,
P. O. Box 8100,
Montreal, Quebec, Canada, H3C 3N4,

Attention of Treasurer,
if to the Vendor, at

79 South Main Street
Salt Lake City, Utah 84111,

Attention of Trust Department,
Corporate Division,

if to the Beneficiary, at

Three Gateway Center (23rd Floor),
Pittsburgh, Pennsylvania 15222,

Attention of Manager of Lease Operations,

in each case with a copy to ITEL Leasing Corporation, at

One Embarcadero Center,
San Francisco, California 94111,

Attention of Contract Administration,

or addressed to any such 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 as hereinabove provided.

Section 18. Effect and Modification of Lease.

Except for the Participation Agreement, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supercedes 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 19. Definitions. Whenever the term "Lessor"

is used in this Lease it shall include the Beneficiary and any assignee and, where the context so requires, shall refer only to the Beneficiary or such assignee. If and so long as this Lease is assigned to the Vendor (or any successor thereto) for collateral purposes, wherever the term "Lessor" is used in this Lease it shall also apply and refer to the Vendor and any successors thereto unless the context shall otherwise require and except that the Vendor shall not be subject to any liabilities or obligations under this Lease; and the fact that the Vendor is specifically named in certain provisions shall not be construed to mean that the Vendor (and any successors thereto) is not entitled to the benefits of other provisions where only the Lessor is named or where only the Vendor, as the case may be, is named.

Section 20. Execution. This Lease may be exe-

cuted in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Lease Assignment 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 21. Law Governing. The terms of this

Lease and all rights and obligations hereunder shall be governed by the laws of the State of Michigan; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and any other statute pursuant to which this Lease is filed or deposited.

Section 22. Immunities; No Recourse. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all the representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, covenants, undertakings and agreements by American Security and Trust Company, N.A., or for the purpose or with the intention of binding said national association 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 Lease is executed and delivered by said American Security and Trust Company, N.A., solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and except in the case of gross negligence or wilful misconduct, no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said corporation or the Beneficiary or on account of any representation, covenant, undertaking or agreement of the Lessor, either express or implied, all such personal liability, if any, being expressly waived and released by the Lessee.

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

AMERICAN SECURITY AND TRUST COMPANY, N.A.,
as Trustee,

[Seal]

by

Attest:

Vice President

Assistant Secretary

GRAND TRUNK WESTERN RAILROAD COMPANY,

[Corporate Seal]

by

Attest:

Vice President

Attesting Officer

SCHEDULE A

<u>Quantity</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>Lessee's Road Numbers (Inclusive)</u>
150	LO	100-ton covered hopper cars	GTW 138200 -138349
100	XP	100-ton box cars	GTW 375400 -375499
18	XL	100-ton box cars	GTW 375500 -375517

SCHEDULE B

Casualty Value Percentages Schedule

Table 1

<u>Rental Payment Date</u>	<u>Percentage of Purchase Price</u>
July 15, 1977	85.6274
January 15, 1978	85.7898
July 15, 1978	85.7336
January 15, 1979	85.4402
July 15, 1979	84.9449
January 15, 1980	84.2264
July 15, 1980	83.3160
January 15, 1981	82.1983
July 15, 1981	80.8999
January 15, 1982	79.4119
July 15, 1982	77.7564
January 15, 1983	75.9308
July 15, 1983	73.9529
January 15, 1984	71.8315
July 15, 1984	69.6033
January 15, 1985	67.2723
July 15, 1985	64.8407
January 15, 1986	62.3758
July 15, 1986	59.8971
January 15, 1987	57.3743
July 15, 1987	54.7878
January 15, 1988	52.1586
July 15, 1988	49.4644
January 15, 1989	46.7274
July 15, 1989	43.9232
January 15, 1990	41.0752
July 15, 1990	38.1578
January 15, 1991	35.1957
July 15, 1991	32.1621
January 15, 1992	29.0828
July 15, 1992	28.1016
January 15, 1993	27.1490
July 15, 1993	26.2155
January 15, 1994	25.3152
July 15, 1994	24.4072
January 15, 1995	23.5065
July 15, 1995	22.5985
January 15, 1996	21.6986
July 15, 1996	20.7932
January 15, 1997	20.0000

Table 2

The percentages set forth in Table 1 of this Schedule B have been computed without regard to recapture of the Investment Credit (as defined in the Participation Agreement). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence on or before the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth below:

<u>Anniversary of Delivery and Acceptance</u>	<u>Percentage of Purchase Price</u>
Third	19.2308%
Fifth	12.8205%
Seventh	6.4103%

ANNEX D to the
CONDITIONAL SALE
AGREEMENT

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of June 1, 1976

between

AMERICAN SECURITY AND TRUST COMPANY, N.A.,
as Owner Trustee

and

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION,
not in its individual capacity but solely
as Agent

ASSIGNMENT OF LEASE AND AGREEMENT

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LESSEE'S CONSENT AND AGREEMENT	

ASSIGNMENT OF LEASE AND AGREEMENT dated as of June 1, 1976, by and between AMERICAN SECURITY AND TRUST COMPANY, N.A., not in its individual capacity but solely as Trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Lessor or the Vendee) with WESTINGHOUSE CREDIT CORPORATION (hereinafter called the Beneficiary), and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity but solely as Agent (hereinafter called the Vendor), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessor, the Beneficiary, the Lessee as hereinafter defined, and certain institutional investors.

The Vendee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Document), with Pullman Incorporated (Pullman Standard Division) providing for the sale to the Vendee of the interest of the Vendor in such units of railroad equipment (hereinafter called the Units) described in Schedule A thereto as are delivered to and accepted by the Vendee thereunder.

The Lessor and Grand Trunk Western Railroad Company (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units.

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

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

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as Vendee under the Security Document, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease; provided, however, that such assignment and transfer shall be limited to the rights and interests of the Lessor under the Lease as above described and shall in no way be deemed to assign any right, title and interest, powers, privileges or other benefits of the Beneficiary which it may have obtained from the Lessee or otherwise with respect to the Units, including, without limitation, all right, title and interest, powers, privileges and benefits of the Beneficiary arising under Paragraph 11 of the Participation Agreement. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept all Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the Security Document, and to provide for the payments required to be made by the Lessor to the Vendor pursuant to the last paragraph of Paragraph 8 of the Participation Agreement under which the Vendor is acting as Agent, and so long as no event of default (or event which, with notice or lapse of time, or both, could constitute an event of default) under the Security Document shall have occurred and be continuing, any balance shall be paid to the Lessor not later than the first business day following such receipt by wire transfer of immediately available funds by the Vendor to such bank in the continental United States for the account of the Beneficiary as the Beneficiary shall from time to time have

directed the Vendor in writing, and if no such direction shall have been given, by check of the Vendor payable to the order of the Beneficiary and mailed to the Beneficiary by certified mail, postage prepaid, at 3 Gateway Center, 23rd Floor, Pittsburgh, Pennsylvania 15222, Attention: Manager of Lease Operations. If the Vendor shall not receive any rental payment under the first paragraph of Section 2 of the Lease when due, the Vendor shall notify the Lessor at the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the Security Document.

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

3. To protect the security afforded by this Assignment the Lessor agrees that, without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void; provided, however, that the Lessor may amend or supplement the Lease to provide for an increase or decrease of amounts due as rentals under Section 2 thereof and/or Casualty Values under Section 6 thereof provided that no such decrease shall reduce said amounts below that which are necessary to satisfy the obligations of the Lessor under the Security Document, notwithstanding any limitation of liability of the Lessor contained therein.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to

ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Vendor may deem to be necessary or advisable in the premises.

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

6. If an event of default under the Security Document shall occur and be continuing, the Vendor may declare all sums secured hereby immediately due and payable and may apply all such sums against the amounts due and payable under the Security Document.

7. The Lessor will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, re-register, re-record or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Vendor in order to confirm or further assure, the interests of the Vendor hereunder.

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

9. The Lessor will pay and discharge any and all claims, liens, charges or security interests (other than created by the Security Document) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor, or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the Security

Document or the Lease (but including tax liens arising out of the receipt of the income and proceeds from the Units) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments equal or superior to the Vendor's interest therein, unless the Lessor shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect such interests of the Vendor.

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

11. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the Security Document, or at such other address as the Vendor shall designate.

12. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no Event of Default under the Lease or event of default under the Security Document has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the Security Document, the Lessor may, so long as no event of default under the Security Document or Event of Default under the Lease has occurred and is continuing, exercise or enforce, or seek to exercise or enforce or avail itself of, such rights, powers, privileges, authorizations or benefits.

13. Notwithstanding any other provision of this Assignment (including, but not limited to, any provision of the first paragraph of Paragraph 1 and Paragraph 3 hereof), (a) the terms of this Assignment shall not impose any obligations on the Lessor in addition to the obligations of the Lessor under the Lease or under the Security Document or in any way limit the effect of the last paragraph of Article 4 of the Security Document, Article 21 of the Security Document or Section 22 of the Lease, (b) so long as there is

no event of default under the Security Document, and to the extent that the Vendor does not seek to receive and collect any Payments under the Lease in excess of the amounts required to discharge the obligations of the Lessor under the Security Document, the terms of this Assignment shall not limit or in any way affect the Lessor's right to receive and collect any Payments under the Lease in excess of the obligations of the Lessor under the Security Document, or empower the Vendor in any way to waive or release the Lessee's obligation to pay such excess amounts, and the Lessor shall continue to be empowered to ask, demand, sue for, collect and receive any and all of such excess amounts, but shall not take any action under subparagraph (b) of Section 9 of the Lease without the written consent of the Vendor and (c) each and all of the representations, undertakings and agreements herein 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 American Security and Trust Company, N.A., or for the purpose or with the intention of binding said trust company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Assignment is executed and delivered by the said trust company solely in the exercise of the powers expressly conferred upon said trust company 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 said trust company, except for wilful misconduct or gross negligence, or against the Beneficiary under the Trust Agreement or on account of any representation, undertaking or agreement of the Lessor or such Beneficiary (except as provided in Section 5.02 of the Trust Agreement), either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under it, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

14. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Vendor shall be deemed to be the original and all other counterparts shall be deemed to be duplicates thereof. It shall not be necessary that any counterpart be signed by

both parties so long as each party shall sign at least one counterpart.

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

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION, not in its
individual capacity but solely
as Agent,

by

Authorized Officer

[Seal]

Attest:

Authorized Officer

AMERICAN SECURITY AND TRUST
COMPANY, N.A., as Trustee,

by

Vice President and
Trust Officer

[Seal]

Attest:

Authorized Officer

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of 1976, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the seal of said association, that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Notary Public

[Notarial Seal]

My Commission expires

DISTRICT OF COLUMBIA,) ss.:

On this day of 1976, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is Vice President of AMERICAN SECURITY AND TRUST COMPANY, N.A., that one of the seals affixed to the foregoing instrument is the seal of said trust company, that said instrument was signed and sealed on behalf of said trust company by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said trust company.

Notary Public

[Notarial Seal]

My Commission expires

LESSEE'S CONSENT AND AGREEMENT

The undersigned, GRAND TRUNK WESTERN RAILROAD COMPANY, a corporation duly incorporated under the laws of the State of Michigan, the Lessee (hereinafter called the Lessee) named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease and Agreement (hereinafter called the Assignment), hereby (a) acknowledges receipt of a copy of the Assignment and (b) consents to all the terms and conditions of the Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (but not any indemnities or any sums payable to Westinghouse Credit Corporation under Paragraph 11 of the Participation Agreement referred to in the Assignment) in immediately available funds directly to First Security Bank of Utah, National Association, not in its individual capacity but solely as Agent (hereinafter called the Vendor), the assignee named in the Assignment, at 79 South Main Street, Salt Lake City, Utah 84111, Attention of Trust Department, Corporate Division (or at such other address as may be furnished in writing to the undersigned by the Vendor);

(2) The Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the undersigned under the Lease as though the Vendor were named therein as the Lessor;

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

(4) the Lease shall not, without the prior written consent of the Vendor, be amended, terminated or modified, nor shall any action be taken or omitted by the undersigned, the taking or omission of which might result in an alteration or impairment of the Lease or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement may be executed in sev-

