CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

April 29, 1977

File No.: A-10042

RECORDATION NO. 8803 Filed & Recorded

MAY 2 1977 -9 30 AM

INTERSTATE COMMERCE COMMISSION

BERNARD J. ALLEN
DIANE KOHLER-RAUSCH
JOAN A. SCHRAMM
ASSISTANT SECRETARIES

DIRECT DIAL NUMBER
312/454-6534

BY MESSENGER
Interstate Commerce Commission
Washington, D. C. 20423
Attn: Mr. Robert L. Oswald, Secretary

Gentlemen:

Pursuant to Section 20c of the Interstate Commerce Act, as amended, attached for recordation are Counterparts of Lease dated as of 4/27/77.

The names and addresses of the parties to the transaction are as follows:

1. Chicago and North Western Transportation Company, 400 West Madison Street, Chicago, IL 60606, Lessee.

2. Continental Illinois National Bank & Trust Company of Chicago, 231 South LaSalle Street, Chicago, IL 60693, Lessor.

Enclosed is our check for $50 to cover your recording fee. Please return all but one Counterpart showing your recordation data.

Very truly yours,

Diane Kohler-Rausch

Diane Kohler-Rausch
Assistant Secretary

dk:db
encls.
cc: R. L. Schardt*
R. D. Smith
S. Slobidsky*
T. Greenland
R. F. Guenther, Attn: J. James*
D. E. Stockham, Attn: R. S. Brenner

Arthur Andersen & Co.,
Attn: Gary Holdren*

*with copy of agreement

C. H. Kunkel

C Counterpart

Interstate Commerce Commission
Washington, D.C. 20423

5/2/77

OFFICE OF THE SECRETARY

Diane Kohler-Rausch
Assistant Secretary
Chicago & North Western Transp.Co.
400 West Madison Street
Chicago, Illinois 60606

Dear Mrs.Kohler-Rausch

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 5/2/77 at 9:30am, and assigned recordation number(s) 8760-A &8803

Sincerely yours,

Robert L. Oswald
Secretary

Enclosure(s)

SE-30
(5/76)

RECORDATION NO. 9803 Filed & Recorded

MAY 2 1977-9 30 AM

INTERSTATE COMMERCE COMMISSION

LEASE AGREEMENT

Lease Agreement dated as of April 27, 1977, between CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, not in its individual capacity but as trustee under a Maintenance of Way Leasing Trust Agreement ("Lessor"), and CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation ("Lessee").

1. LEASE OF EQUIPMENT

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, upon the terms and conditions hereinafter set forth the equipment described on Exhibit A hereto (the equipment being hereinafter sometimes referred to as the "Equipment" and each such unit of Equipment being sometimes referred to as a "unit" or a "unit of Equipment"). Deliveries of Equipment shall be in the minimum amount of the lesser of (i) $200,000, or (ii) the remaining balance payable to any Manufacturer (as hereinafter defined), except for the final delivery. The aggregate cost for the Equipment ("Lessor's Cost of Equipment") shall not exceed $2,634,500.

2. ASSIGNMENT

Lessee has assigned and transferred to Lessor under a Purchase Agreements Assignment dated as of January 31, 1977 (the "Assignment") all right, title and interest in and to the agreements specified therein between Lessee and the manufacturers specified therein (each such specified manufacturer being hereinafter referred to as "Manufacturer" and all such manufacturers being hereinafter referred to as "Manufacturers") (each such specified agreement being hereinafter referred to as a "Purchase Agreement" and all such specified agreements being hereinafter referred to as "Purchase Agreements") covering the manufacture by Manufacturers and the purchase by Lessee of the Equipment.

3. LEASE TERM

The term of lease under this Lease Agreement of each unit of Equipment shall commence on the date of delivery of such unit of Equipment to Lessee and shall end 96 months

after the date (the "Commencement Date") which shall be the earlier of (i) the date as of which all units of Equipment shall have been accepted by Lessee, or (ii) June 30, 1977.

4. RENT, NET LEASE

Lessee shall pay to Lessor rent, quarterly in arrears, for the Equipment in 32 installments, each of which shall be in an amount equal to 3.86% of Lessor's Cost of Equipment. The first installment of rent shall be payable on the first quarterly anniversary of the Commencement Date. Subsequent installments of rent shall be payable thereafter on each successive quarterly anniversary of the Commencement Date. In addition, Lessee shall pay Lessor interim rent quarterly for the period commencing with the date of payment by Lessor of any part of Lessor's Cost of Equipment and ending on the last day of each calendar quarter and on the Commencement Date, which interim rent shall be in an amount equal to 125% of the prime commercial rate ("Prime Rate") of Continental Illinois National Bank and Trust Company of Chicago from time to time in effect multiplied by that part of Lessor's Cost of Equipment paid by Lessor prior to the Commencement Date computed from the dates so paid to the date of payment of such interim rent, and computed for the actual number of days elapsed on the basis of a year consisting of 360 days. Changes in the interim rent due to changes in said Bank's Prime Rate shall be effective when and as said Bank changes its Prime Rate. All rent and other amounts due from Lessee to Lessor shall be paid to Lessor at its office at: 231 South LaSalle Street, Chicago, Illinois 60693, or at such other place as Lessor shall specify in writing. In the event any rent or other amounts due hereunder shall not be made promptly when due, Lessee shall pay Lessor, as additional rent hereunder, interest on such overdue amount from the due date thereof to the date of payment thereof at a rate equal to the lesser of (i) 12% per annum or (ii) the maximum rate permitted by law.

This Lease Agreement provides for a net lease and the rent and other amounts due hereunder from Lessee to Lessor shall not be subject to any defense, claim, reduction, setoff or adjustment for any reason whatsoever. Lessee shall promptly pay all costs, expenses and obligations of every kind and nature incurred in connection with the use or operation of the Equipment which may arise or be payable

during the lease term of such Equipment hereunder, whether or not such cost, expense or obligation is specifically referred to herein.

5. LESSOR'S ACCEPTANCE OF AND PAYMENTS FOR EQUIPMENT

Each unit of Equipment shall be subject to Lessor's inspection and approval. Such inspection and approval shall be made by an officer of Lessee designated by Lessor as its authorized representative for such purpose from time to time upon delivery of each unit of Equipment. If such unit of Equipment conforms to the specifications required by the appropriate Purchase Agreement, such authorized representative shall promptly execute and deliver to Lessor, in such number of counterparts or copies as may be reasonably requested, a Certificate of Acceptance in the form of Exhibit B hereto (a "Certificate of Acceptance"), provided, however, that neither the Manufacturer nor Lessee shall be thereby relieved of their respective warranties and agreements contained in the appropriate Purchase Agreement and the Assignment.

Lessor shall thereafter from time to time on or before the Commencement Date (not more than once in any week) make such payments as Lessee may request under a Certificate of Acceptance for the purchase of the Equipment under the Purchase Agreements. Each such Certificate of Acceptance (except the last) shall cover units of Equipment in the minimum amount of the lesser of (i) $200,000 or (ii) the remaining balance payable to any Manufacturer.

6. LESSEE'S ACCEPTANCE OF EQUIPMENT

Acceptance of a unit of Equipment by Lessee under a Certificate of Acceptance shall constitute Lessee's acknowledgement that a unit of Equipment is in good order and condition; is of the manufacture, design and capacity selected by Lessee; and is suitable for Lessee's purposes. If Lessee has not accepted all of the Equipment by the Commencement Date, then this Lease Agreement shall cover only those units of Equipment which have theretofore been so accepted.

7. DISCLAIMER OF LESSOR'S WARRANTIES

Lessee agrees and acknowledges that all units of Equipment have been or will be ordered by Lessee in accordance with Lessee's specifications and that LESSOR DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTY WHATSOEVER OF TITLE, MERCHANTABILITY, FITNESS FOR ANY PURPOSE, OR OTHERWISE REGARDING THE EQUIPMENT OF ANY UNIT THEREOF. Lessor shall, at Lessee's sole expense, take all action reasonably requested by Lessee to make available to Lessee to the fullest extent possible any rights of Lessor with respect to the Equipment under any express or implied warranties it may have against any manufacturer with respect to the Equipment.

8. LESSEE'S WARRANTIES

Lessee represents and warrants that:

(a) Lessee is a corporation duly organized and existing in good standing under the laws of the State of Delaware.

(b) Lessee is duly authorized to execute and deliver the Purchase Agreements, the Assignment and this Lease Agreement, and is and will continue to be duly authorized to lease Equipment hereunder and to perform its obligations hereunder and thereunder.

(c) The execution and delivery of the Purchase Agreements, the Assignment and this Lease Agreement by Lessee, and the performance by Lessee of its obligations hereunder and thereunder, do not and will not conflict with any provision of law or of the charter or by-laws of Lessee or of any indenture, mortgage, deed of trust or agreement or instrument binding upon Lessee or to which Lessee is a party.

(d) The execution, delivery and performance of the Purchase Agreements, the Assignment and this Lease Agreement by Lessee and the consummation by Lessee of the transactions contemplated hereby and thereby does not require the consent, approval or authorization of, or notice to, any Federal or State governmental authority or public regulatory body. Additionally, (i) this Lease Agreement will be recorded with the ICC in

accordance with Section 20c of the Interstate Commerce Act, and (ii) all Uniform Commercial Code financing statements required for the purpose of proper perfection, to Lessor's satisfaction, of Lessor's interest in the Equipment will be filed with all appropriate county and state filing officers.

(e) Lessee's financial statement as at December 31, 1976, a copy of which has been furnished to Lessor, has been prepared in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding fiscal year and presents fairly the financial condition of Lessee as at the date thereof, and the results of its operations for the period then ended, and since such date there has been no material adverse change in its financial condition.

(f) The Purchase Agreements, the Assignment and this Lease Agreement are the legal, valid and binding obligations of Lessee enforceable in accordance with their respective terms.

(g) There are no pending or threatened actions or proceedings before any court or administrative agency which may to a material extent adversely affect the financial condition or continued operation of Lessee and its subsidiaries on a consolidated basis (except as previously disclosed in writing by Lessee to Lessor).

(h) The Equipment will (i) constitute new section 38 property, the original use of which will commence with Lessor within the meaning of Sections 48(b)(2) and 167(c)(2) of the Internal Revenue Code of 1954, as amended, and (ii) continue to be section 38 property throughout the term of this Lease Agreement unless such term ("section 38 property") is amended or modified effective for taxable years subsequent to the date of delivery and acceptance of the units of Equipment.

(i) In the good faith opinion of Lessee, based on its experience with similar equipment, each unit of Equipment on the date of delivery thereof will have an estimated useful life of at least two years beyond the expiration of the term of lease permitted under this

Lease Agreement for such unit of Equipment and an estimated fair market value at the end of such lease term of at least 20% of Lessor's Cost of Equipment for such unit of Equipment, without including in such fair market value any increase or decrease for inflation or deflation during the term of the lease for such unit of Equipment.

(j) The Equipment will not be used in connection with the performance of any prime government contract, or subcontract or purchase order thereunder, with respect to which the provisions of the Renegotiation Act of 1951, as amended, are applicable.

9. OWNERSHIP, LOCATION, USE OF AND LIENS ON EQUIPMENT

(a) The Equipment shall be the exclusive property of Lessor, and Lessee shall have no rights therein except the right to use it so long as Lessee is not in default hereunder. It is the intention of the parties hereto that the Equipment shall be and remain personal property of Lessor and Lessee shall not permit the Equipment to become or remain a fixture to any real estate or an accession to any personalty not leased hereunder. If any unit of Equipment is placed upon a railroad car, which placement will be indicated on the Certificate of Acceptance for such unit, Lessee shall not, without Lessor's prior written consent, remove any such unit from the railroad car so specified.

(b) Lessee agrees that the Equipment will be used solely in the conduct of its business, with due care to prevent injury thereto or to any person or property and in conformity with all applicable laws, ordinances, rules, regulations and other requirements of any insurer or governmental body (including, without limitation, any requirements regarding licensing or registration, or evidencing title to the Equipment, all of which shall be done in such manner as shall have previously been approved in writing by Lessor). Lessor, or any duly authorized representative thereof, may during reasonable business hours from time to time inspect the Equipment and Lessee's records with respect thereto wherever the same may be located.

(c) Lessee agrees to comply in all respects with all laws of the jurisdictions in which the units may be

operated, with the interchange rules of the Association of American Railroads, if applicable, and with all lawful rules of the Department of Transportation and the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the units. In the event that such laws or rules require the alteration of the units or in case any equipment or appliance on any such unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such unit in order to comply with such laws, regulations, requirements and rules, Lessee agrees to make such alterations, changes, additions and replacements at its own expense; and Lessee agrees at its own expense to use, maintain and operate such unit in full compliance with such laws, regulations, requirements and rules so long as the units are subject to this Lease Agreement; provided, however, that Lessee may, in good faith, contest the validity or application of any such law, regulation, requirement or rule in any reasonable manner which does not in the opinion of Lessor adversely affect the property or rights of the Lessor hereunder; and further provided, however, that any additions to the units which can be removed without material damage to the units shall become the property of Lessee on the termination of this Lease Agreement.

(d) Lessee shall not permit any lien, charge, encumbrance, security interest, or other similar interest to arise or remain on any Equipment other than (i) liens placed by Lessor or liens of persons claiming against Lessor but not Lessee, which arise out of obligations which Lessee is not required by this Lease Agreement to pay or discharge, (ii) liens of current taxes not delinquent, and (iii) inchoate materialmen's or mechanics liens arising in the ordinary course of business and not delinquent.

(e) Lessee shall place and maintain on each side of each unit of Equipment a notice (in letters not less than one inch in height) conspicuously disclosing Lessor's ownership thereof as follows:

"CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE, OWNER-LESSOR"

or other appropriate words designated by Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of Lessor to such unit and the rights of Lessor under this Lease Agreement. Lessee will not place any such unit in operation or exercise any control or dominion over the same until such names and words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. Lessee shall maintain on each unit of Equipment the serial and other identifying numbers, if any, set forth on the applicable Certificate of Acceptance and Exhibit A hereto. Lessee will not change the identifying number of any unit except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with Lessor by Lessee and filed, recorded or deposited by Lessee in all public offices where this Lease Agreement shall have been filed, recorded or deposited. Except as above provided, Lessee, so long as this Lease Agreement 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 Lessee may cause the units to be lettered with the names or initials or other insignia customarily used by Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their right to use the units as permitted under this Lease Agreement.

(f) Lessee shall, prior to the delivery of units of Equipment hereunder, obtain such waivers, releases, or other documents, in form and substance satisfactory to Lessor, as may be reasonably required to insure that such Equipment (i) will not be subject to any lien (including, without limitation, liens of the owners of the railroad cars upon which such Equipment will be placed), (ii) will not become a fixture to any real estate or (iii) will not become an accession to any personalty (including, without limitation, an accession to the railroad cars upon which such Equipment will be placed).

10. MAINTENANCE OF EQUIPMENT

Lessee shall at all times keep the Equipment in good repair and efficient condition and working order, reasonable

wear and tear excepted. Lessee shall supply all parts, service, and other items required in the operation and maintenance of the Equipment. Lessee shall not, without the written consent of Lessor, make any additions to the Equipment. All parts, replacements, substitutions and additions to or for any Equipment shall immediately become Equipment and the property of Lessor; provided, however, that any additions to the units which can be removed without material damage to the units shall become the property of Lessee on the termination of this Lease Agreement. Lessee assumes all risk of, and Lessee's obligations under this Lease Agreement shall continue unmodified despite, any loss, theft, destruction, damage, condemnation, requisition or taking by eminent domain or other interruption or termination of use of any Equipment regardless of the cause thereof.

11. EVENT OF LOSS

(a) Upon the happening of any loss, theft, destruction, damage, condemnation, requisition, taking by eminent domain or other interruption or termination of use of any unit of Equipment regardless of the cause thereof (herein collectively called an "Event of Loss"), Lessee shall promptly make all repairs and replacements necessary to restore or repair such unit of Equipment so that the Equipment thereafter subject to lease hereunder is substantially equivalent to, and of a value equal to, the Equipment subject to lease hereunder immediately prior to such Event of Loss; provided, however, that Lessee may instead on the next quarterly rent payment date following such Event of Loss, furnish Lessor with an affidavit of an officer of Lessee setting forth the fact of such Event of Loss and pay to Lessor the Stipulated Loss Value (as defined in Exhibit C hereto, determined as of such next subsequent rent payment date) of such unit of Equipment. Upon payment of (i) such Stipulated Loss Value, (ii) any rent accrued and unpaid on such unit of Equipment to and including the rent payment date immediately preceding such next rent payment date and (iii) any other amounts owing by Lessee hereunder, whether as additional rent, indemnification or otherwise, Lessor shall transfer to Lessee, without any representation or warranty of any kind, express or implied, whatever title to such unit of Equipment it may have. Upon such transfer the lease of such unit of Equipment hereunder shall end.

(b) When Lessee has fulfilled the requirements of paragraph (a) regarding an Event of Loss, Lessor shall (if no event of default, or event which might mature into an event of default, has occurred and is continuing) reimburse Lessee for its costs thus incurred to the extent of any proceeds received by Lessor because of such Event of Loss either under any policies of insurance provided for in Section 12 or as satisfaction of any claim (other than one to which an insurer is or may be subrogated) by Lessor against any person or persons liable in respect of such Event of Loss, after subtracting in each instance all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by Lessor and not otherwise reimbursed by Lessee in respect thereto.

12. INSURANCE

(a) Lessee will cause to be carried and maintained at all times during the term of this Lease Agreement physical damage and liability insurance covering the Equipment in the name of Lessor and Lessee in such amounts and in such form as is commonly maintained on comparable equipment by companies similarly situated. Lessee currently maintains the insurance coverage described in Exhibit D. Such insurance policy or policies shall provide that all losses thereunder will be adjusted with Lessee or Lessor and will be payable to Lessor and Lessee as their respective interests shall appear.

(b) The policies of insurance required under this Section 12 shall be valid and enforceable policies issued by insurers of recognized responsibility comparable to Lessee's present insurers. Upon the execution of each Certificate of Acceptance, and thereafter not less than 10 days prior to the expiration dates of any expiring policies theretofore furnished under this Section 12, originals of the policies and satisfactory evidence of the payment of premiums thereon shall be delivered by Lessee to Lessor except that Lessor may accept certificates of insurance from Marsh & McLennan, Incorporated satisfactory to Lessor in lieu of original policies. Such policies may be blanket policies covering other equipment not covered by this Lease Agreement, pro-

vided that the aforementioned certificate of Marsh & McLennan, Incorporated shall (i) indicate that Equipment leased hereunder is included therein and covered thereby to the full extent of the amounts herein required and (ii) state that Marsh & McLennan, Incorporated, on behalf of Lessee, shall cause, within a reasonable period of time, the Lessee's insurance underwriters to name Lessor as an additional insured party thereunder with respect to such units of Equipment. All such policies shall contain an agreement by the insurers that such policies shall not be cancelled without at least 10 days' prior written notice to Lessor and that the insurer shall give notice to Lessor in the event of nonpayment of premium by Lessee when due.

13. TAXES

Lessee agrees to pay and discharge (and does hereby agree to indemnify and hold Lessor harmless from and against) all sales, use, personal property, leasing, leasing use, stamp or other taxes, levies, imposts, duties, charges or withholdings of any nature (together with any penalties, fines or interest thereon) imposed against Lessor, Lessee or the Equipment by any Federal, State or local government or taxing authority upon or with respect to the Equipment or upon the purchase, ownership, delivery, lease, possession, use, operation, return, sale or other disposition thereof hereunder or in connection herewith, or upon the rentals, receipts, or earnings arising therefrom, or upon or with respect to this Lease Agreement (excluding, however, any United States Federal income tax payable by Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all state or local income taxes or franchise taxes measured solely by net income based on such receipts or gross receipts taxes [other than gross receipts taxes in the nature of sales, use or rental taxes] payable by Lessor, up to the amount of any such taxes which would be payable in the state or locality in which Lessor has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), unless, and to the extent only that, any such tax, levy, impost, duty, charge or withholding is being

contested by Lessee in good faith and by appropriate proceedings. Lessee agrees to file, on behalf of Lessor, all required tax returns and reports concerning the Equipment with all appropriate governmental agencies and to furnish Lessor a copy, upon request, of each such return or report, including evidence of payment; provided, however, that in the event Lessee is not permitted to file such returns and reports on behalf of Lessor, then Lessee agrees to prepare and forward all such returns to Lessor in a timely manner with appropriate instructions to Lessor as to their filing. To the extent that any taxes hereinabove referred to in this Section 13 are included in Lessor's Cost of Equipment for any unit, Lessee shall not be obligated under this Section 13 for indemnification with respect to such taxes.

14. INDEMNIFICATION AND EXPENSES

(a) Lessee agrees to and does hereby indemnify and hold Lessor and its agents, employees, stockholders, officers and directors, harmless from and against any and all expense, liability or loss whatsoever, including (without limitation) reasonable legal fees and expenses, relating to or in any way arising out of the Purchase Agreements, the Assignment or this Lease Agreement, or the purchase, ownership, delivery, lease, possession, rental, use, operation, return, sale or disposition of the Equipment hereunder or in connection herewith (including without limitation, expense, liability or loss relating to or in any way arising out of injury to persons or property, patent or invention rights or strict liability in tort). Lessor shall give Lessee and Lessee shall give Lessor notice of any event or condition which requires indemnification by Lessee hereunder, or any allegation of such event or condition, promptly upon obtaining knowledge thereof, and, to the extent that Lessee makes or provides to the satisfaction of Lessor for payment under the indemnity provisions hereof, Lessee shall be subrogated to Lessor's rights with respect to such event or condition and shall have the right to determine the settlement of claims thereon, it being agreed that except to the foregoing extent, Lessor shall have the right to determine such settlement. Lessee shall pay all amounts due hereunder promptly on notice thereof from Lessor.

(b) If as to any unit of Equipment Lessor shall not be entitled under any circumstances (including any Change in Tax Law, as defined in Section 27(b) hereof, occurring after delivery and acceptance of such unit of Equipment) other than as set forth in paragraph (d) below to any portion or all of the maximum 10% investment credit presently allowable under Section 38(a) of the Internal Revenue Code of 1954, as amended (the "Code"), for property with a useful life of seven or more years on not less than Lessor's Cost of Equipment for such unit of Equipment, or if at any time Lessor shall lose, have recaptured or be deemed not to be entitled to any portion or all of said maximum investment credit on Lessor's Cost of Equipment for each such unit of Equipment under any circumstances (including any Change in Tax Law occurring after delivery and acceptance of such unit of Equipment) other than as set forth in such paragraph (d), then, Lessee shall pay Lessor upon demand, the sum of (1) the amount of said maximum investment credit which Lessor shall have so lost, had recaptured or failed to receive; (2) the amount of any interest (net of any actual decrease in Federal income tax caused by any allowable deduction of such interest from taxable income) or penalties, including any additions to tax because of underpayment of estimated tax which may be assessed against Lessor in connection therewith; and (3) the amount of any taxes required to be paid by Lessor in respect of the receipt of amounts referred to in clauses (1) and (2) above and the receipt of amounts pursuant to this clause (3). If, at any subsequent time, Lessor shall be allowed and receive a refund with respect to any portion or all of said maximum investment credit which it lost, had recaptured or failed to receive at any time previous and for which payment had been made to Lessor by Lessee pursuant to this paragraph (b), then, promptly after receipt of said refund, Lessor shall pay Lessee the sum of (i) all amounts with respect to such allowance paid to Lessor by the Federal government (including refunds of investment credit, interest, and penalties and any additional interest paid to Lessor by the Federal government on such refunds) reduced by all taxes required to be paid by Lessor in respect of the receipt of such amounts from the Federal government, and (ii) the amount of any taxes saved by Lessor in respect of its payment to

Lessee of amounts referred to in clause (i) above and its payment to Lessee of amounts pursuant to this clause (ii). Lessor agrees to use its best efforts to take the 10% investment credit with respect to the Equipment on its Federal income tax return for the earliest possible year for which it can be taken.

(c) If Lessor in computing its Federal taxable income or its taxable income for purpose of computing its liability to any state or local taxing authority in which the principal office of Lessor is located, for any part of the lease term of any unit of Equipment shall under any circumstances (including any Change in Tax Law occurring after delivery and acceptance of such unit of Equipment) other than as set forth in paragraph (d) below lose the benefit of or the right to claim or there shall be disallowed or recaptured all or any portion of depreciation deductions for Federal, state or local income tax purposes for such unit of Equipment based on depreciation of Lessor's Cost of Equipment for such unit over a depreciable life of 8 years to a net salvage value of 12% using any of the methods described in clause (y) of Section 27(b) hereof, which Lessor, in its complete discretion, may select, then Lessee shall pay Lessor on each rent payment date during the remaining lease term of such unit, as additional rent hereunder, an amount which, after deduction of all taxes required to be paid by Lessor in respect of the receipt thereof, shall be sufficient to yield to Lessor the same total net after tax cash flow and annual rate of return as of each rent payment date as would have been realized by Lessor in respect of this Lease Agreement if such loss, disallowance, or recapture of depreciation deductions or the right to claim the same had not occurred, which amount shall, if subsequent circumstances require, be thereafter adjusted (or further appropriate adjustments shall be made in respect thereof, including any adjustment necessary to reflect the amount of any refund of taxes, interest or penalties received by Lessor or the receipt by Lessor of interest with respect to such refund) when and to the extent necessary so that Lessor's total net after tax cash flow and annual rate of return shall be as aforesaid. In addition, Lessee shall also pay Lessor on demand, as additional rent hereunder, an amount which, after deduction of all taxes required to be paid by Lessor in respect of the

receipt thereof, shall be equal to the amount of any interest (net of any actual decrease in Federal, state or local income tax caused by any allowable deduction of such interest from taxable income) or penalties, including any additions to tax because of underpayment of estimated tax, which may be assessed against Lessor in connection with such loss, disallowance, or recapture of depreciation deductions or the right to claim the same.

(d) Lessee shall not be required to pay Lessor the amounts provided for in paragraphs (b) and (c) above if the loss or disallowance of investment credit or depreciation deductions, as the case may be, or the right to claim the same, shall result only from the occurrence of any of the following events:

(i) Lessor shall fail to claim such investment credit or depreciation deductions in its income tax returns for the appropriate years or shall fail to follow the proper procedures in claiming such investment credit or depreciation deductions and such failure to claim or follow such procedures, as the case may be, shall preclude Lessor from claiming such investment credit or depreciation deductions, unless such failure is based on the advice of Lessor's counsel that a reasonable basis does not exist for claiming such investment credit or depreciation deductions because of (x) a change in the condition or use of the Equipment or any unit thereof, (y) a Change in Tax Law (as defined in Section 27(b) hereof) which occurred prior to the date of delivery or acceptance of any unit of Equipment or which is enacted or issued after but is effective retroactively to a date on or prior to such date, or (z) an error in the initial classification of any unit of Equipment; provided that Lessor has consulted with Lessee, and, if so requested, arranged for its counsel to consult with counsel to Lessee, prior to determining not to claim such investment credit or depreciation deductions, it being understood, however, that in all events the advice of Lessor's counsel referred to above shall be conclusive.

(ii) Lessor shall not have sufficient income to benefit from such investment credit or depreciation deductions;

(iii) Lessor shall voluntarily transfer legal title to the Equipment (other than a transfer pursuant to Section 11(a) hereof) or Lessor shall dispose of or reduce its interest in such Equipment, if such transfer, disposal or reduction (A) shall be the cause of such loss, (B) shall occur at any time when no event of default has occurred and is continuing and (C) shall not be pursuant to the written consent of Lessee;

(iv) Lessor (or its affiliated group) shall fail to take timely action in contesting a claim made by the Internal Revenue Service or any State or local taxing authority with respect to the disallowance of the investment credit or depreciation deductions pursuant to paragraph (e) below and the failure to take such action in a timely manner shall preclude all rights to contest such claim, unless Lessee shall agree to such failure;

(v) Lessee shall have paid Lessor the Stipulated Loss Value of such unit of Equipment pursuant to Section 11(a) hereof;

(vi) A change in the corporate Federal income tax rate, enacted and effective subsequent to the delivery and acceptance of the units of Equipment, to the extent such change reduces the benefit to Lessor of the investment credit or depreciation deductions;

(vii) Any amendment to or modification of Section 38 and related provisions of the Code, the Treasury Regulations under the Code, published Internal Revenue Service Revenue Procedures, Revenue Rulings or other administrative interpretations, or applicable judicial precedents, enacted or issued and effective for taxable years beginning subsequent to the delivery and acceptance of the units of Equipment, to the extent such amendment or modification reduces the amount of the investment credit to which Lessor is entitled; or

(viii) A Change in Tax Law (as defined in Section 27(b) hereof) with respect to which the rental rate specified in Section 4 hereof is increased pursuant to Section 27(a) hereof.

(e) In the event a claim shall be made by the Internal Revenue Service or any state or local taxing authority which, if successful, would result in a loss of such investment credit or depreciation deductions under circumstances which would require Lessee to indemnify Lessor for such loss, Lessor hereby agrees to notify Lessee promptly of such claim, to not make payment of the tax claimed for at least 30 days after giving such notice, to advise Lessee of the additional amounts to be due from Lessee under this Section 14 as a consequence of the asserted claim, to give to Lessee any relevant information requested by it relating to such claim which may be particularly within the knowledge of Lessor and, if Lessee shall request within 30 days after the giving of such notice that such claim be contested, to take such action in connection with contesting such claim, including appropriate appeals from lower court decisions, as Lessee shall reasonably request in writing from time to time, but only if Lessee shall, contemporaneously with such initial request, have (i) made provision for Lessor's indemnification in a manner satisfactory to Lessor for any liability or loss which Lessor may from time to time incur as the result of contesting such claim and reimbursement for all costs and expenses, including legal fees and disbursements, which Lessor may incur in connection with the contesting of such claim and (ii) furnished Lessor with an opinion of independent tax counsel satisfactory to Lessor to the effect that a meritorious defense exists to such claim. In the event the additional amounts due from the Lessee over the then remaining term of this Lease ("aggregate indemnity") are less than $50,000 Lessor's duty to contest the claim shall not require review above the level of the Internal Revenue Service Appellate Division provided, however, that at Lessee's request, Lessor will submit the matter to the National Office of the Internal Revenue Service for Technical Advice. In all cases where the aggregate indemnity is $50,000 or more, at the request of Lessee, Lessor shall contest the claim by appropriate administrative or judicial proceedings, provided, however, that at any time after having received such request from Lessee, Lessor at its

sole option, may forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service or any State or local taxing authority, as the case may be, in respect of such claim and sue for a refund in the appropriate United States District Court, the United States Court of Claims, or appropriate State court, as the case may be, as Lessor shall elect, or contest such claim in the United States Tax Court, or appropriate State court, as the case may be.

(f) References in Section 13 and in paragraphs (b) through (e) of this Section 14 and in paragraph (a) of Section 27 to Lessor shall be deemed to mean Lessor and the Beneficiaries under Maintenance of Way Leasing Trust Agreement and any affiliated group(s) of which such Beneficiaries are a part which files a consolidated return for Federal income tax purposes, provided that only Lessor and such Beneficiaries shall be obligated with respect to the covenants and duties (other than covenants and duties relating to any tax refund received by Lessor with respect to an item as to which Lessee has indemnified Lessor) therein expressed to be imposed on Lessor.

(g) All of the indemnities and agreements of Lessee contained in Section 13 and in this Section 14 shall survive and continue in full force and effect notwithstanding termination of this Lease Agreement or of the lease of any or all units of Equipment hereunder.

(h) Any payments required to be made by Lessee pursuant to this Section 14 as a result of a Change in Tax Law shall be reduced by all tax savings arising from this transaction which have theretofore been or in the current taxable year will be realized by Lessor on account of any change in tax law resulting in Federal income tax consequences to Lessor more favorable than the tax benefits presently existing on the date hereof.

(i) Any amount payable in accordance with this Section 14 shall be paid within 15 days of Lessee's receipt of Lessor's invoice therefor. Each such invoice shall be detailed to reflect the calculation of amounts due hereunder and shall be accompanied by a statement from a senior officer of Lessor to the effect that he

has examined Lessor's determination of the amount due and that, in his opinion, such amount due has been properly calculated pursuant to this Section 14 using the same method and the same assumptions (including rate of return) as were utilized in originally evaluating the financing contemplated by this Lease Agreement.

15. RETURN OF EQUIPMENT

Upon final termination of the lease term hereunder of any unit of Equipment (other than a termination under Section 11(a)), Lessee shall forthwith remove, assemble and deliver possession of the units to Lessor in the same condition as when received, ordinary wear and tear excepted. For the purpose of delivering possession of any unit or units to Lessor as above required, Lessee shall at its own cost, expense and risk remove and transport such units to Lessor at such point in Cook County, Illinois, or other location on Lessee's lines as Lessor shall specify. The removal, assembling, delivery, and transporting of the units as hereinbefore provided shall be at the expense and risk of Lessee and are of the essence of this Lease Agreement, and upon application to any court of equity having jurisdiction in the premises Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee so to remove, assemble, deliver and transport the units. During the period of removal or assembly and until delivery to Lessor is accomplished, Lessee shall maintain insurance on the units of Equipment in accordance with Section 12 hereof and shall permit 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; provided, however, that Lessee shall not be liable, except in the case of negligence of Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 15, Lessee hereby irrevocably appoints Lessor as the agent and attorney-in-fact of Lessee, with full power and authority, at any time while Lessee is obligated to deliver possession of any unit to Lessor, to demand and take possession of such unit in the name and on behalf of Lessee from whomsoever shall be in possession of such unit at the time.

16. FINANCIAL STATEMENTS

Lessee shall furnish or cause to be furnished to Lessor, (i) within 120 days after each fiscal year of Lessee, a copy of the annual audit report of Lessee and any consolidated subsidiaries, prepared on a consolidated basis and in conformity with generally accepted accounting principles (subject to conforming railroad qualifications) applied on a basis consistent with that of the preceding year, and signed by nationally recognized independent certified public accountants satisfactory to Lessor, (ii) within 120 days after each fiscal year of Lessee, a copy of the ICC Rail Form R1 of Lessee for such year, prepared on a consolidated basis and in conformity with the Uniform System of Accounts for Railroad Companies prescribed by the ICC applied on a basis consistent with that of the preceding fiscal year, and signed by a proper accounting officer of the Lessee, (iii) within 60 days after each quarter (except the last quarter) of each fiscal year of Lessee, a copy of its unaudited consolidated financial statement, prepared in conformity with generally accepted accounting principles and consisting of at least a balance sheet as at the close of such quarter and a profit and loss statement and analysis of surplus for such quarter and for the period from the beginning of such fiscal year to the close of such quarter, and signed by a proper accounting officer of Lessee, (iv) with the annual audit report each year, a certificate of a responsible officer of Lessee to the effect that, except as otherwise specified therein, (x) all units of Equipment are in existence and in good and efficient condition and have been marked as required by paragraph (e) of Section 9 hereof and, (y) no event of default, or event which might mature into an event of default, has occurred and is continuing under this Lease Agreement, and (v) from time to time, such other information as Lessor may reasonably request.

17. EVENTS OF DEFAULT

(a) The following shall be events of default hereunder:

(i) Default, and continuance thereof for 15 days, in the payment of any rent or other amount due hereunder;

(ii) Any obligation of Lessee or any material subsidiary for borrowed money or material payment of rent (other than any such obligation of

any such subsidiary to Lessee or any other subsidiary) becomes or is declared to be due and payable prior to its express maturity by reason of default by Lessee or any such subsidiary in the performance or observation of any obligation or condition, provided, however, that claimed defaults which are contested in good faith by Lessee and for which Lessee has established and is maintaining in accordance with generally accepted accounting principles an adequate reserve shall not constitute an event of default hereunder;

(iii) Default in the performance of any of Lessee's agreements herein set forth (and not constituting an event of default under either of the preceding clauses of this paragraph (a)) and continuance of such default for 30 days after notice thereof from Lessor to Lessee;

(iv) Any representation or warranty made by Lessee in this Lease Agreement is untrue in any material respect, or any statement, report, schedule, notice or other writing furnished by Lessee to Lessor in connection herewith is untrue in any material respect on the date as of which the facts set forth are stated or certified; or

(v) Lessee or any material subsidiary becomes insolvent or admits in writing its inability to pay its debts as they mature, or applies for, consents to or acquiesces in the appointment of a trustee or a receiver for Lessee or any such subsidiary or any property of either thereof under Section 77 of the Bankruptcy Act ("Section 77"), or, in the absence of such application, consent or acquiescence, a trustee or receiver is appointed for Lessee or any such subsidiary, or for a substantial part of the property of any thereof under Section 77, and is not discharged within 60 days, provided, however, that if a trustee or receiver is appointed for Lessee under Section 77 within 30 days of application therefor and within 30 days after said appointment such trustee or receiver assumes or adopts in writing, pursuant to a court order or decree, all of Lessee's obligations hereunder in such manner that all such obligations shall have the same status and priority as obli-

gations incurred by such trustee or receiver entitled to the first priority for expenses or administration, then, there shall be no event of default hereunder if and so long as such assumption or adoption remains in full force and effect; or any other bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding is instituted by or against Lessee or any such subsidiary, and, if instituted against Lessee or any such subsidiary is consented to or acquiesced in by Lessee or any such subsidiary or remains for 60 days undismissed.

When used herein, unless the context otherwise requires, the term "event of default" shall mean any event described in the foregoing clauses (i) through (v) and the term "event which might mature into an event of default" shall mean any event which with the lapse of time, or with notice to Lessee and lapse of time, would constitute an event of default. Lessee shall give Lessor prompt notice of any event of default or of any event which might mature into an event of default.

(b) Upon the happening of an event of default, Lessor shall (except to the extent otherwise required by law) be entitled to:

(1) proceed by appropriate court action or actions to enforce performance by Lessee of the applicable covenants and terms of this Lease Agreement or to recover damages for the breach thereof;

(2) repossess any or all units of Equipment without prejudice to any remedy or claim hereinafter referred to (and Lessee hereby waives any claim for damages resulting from the exercise by Lessor of its right to enter upon Lessee's premises and remove the units);

(3) elect to sell any or all units of Equipment, after giving 30 days' notice to Lessee, at one or more public or private sales and recover from Lessee as liquidated damages for Lessee's default hereunder an amount equal to the amount, if any, by which (A) the sum of (i) the aggregate

Stipulated Loss Value of such units of Equipment on the date such notice is given, (ii) all rent owing hereunder to and including the rent payment date immediately preceding the date such notice is given, (iii) all costs and expenses incurred in searching for, taking, removing, keeping, storing, repairing, restoring and selling such units of Equipment, (iv) all other amounts owing by Lessee hereunder, whether as additional rent, indemnification or otherwise, and (v) all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by Lessor as a result of Lessee's default hereunder, exceeds (B) the amount received by Lessor upon such public or private sales of such units of Equipment;

(4) upon notice to Lessee receive prompt payment from Lessee of an amount equal to the aggregate Stipulated Loss Value on the date such notice is given of all units of Equipment which have not been sold by Lessor pursuant to clause (3) above plus, to the extent not otherwise recovered from Lessee pursuant to said clause (3) above, (i) any rent and other amounts owing hereunder to and including the rent payment date immediately preceding the date such notice is given, (ii) all costs and expenses incurred in searching for, taking, removing, keeping, storing, repairing and restoring such units of Equipment, and (iii) all other amounts owing by Lessee hereunder, whether as additional rent, indemnification or otherwise, and (iv) all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by Lessor as a result of Lessee's default hereunder; provided that upon receipt of payment in full of such amount, Lessor shall transfer to Lessee, without any representation or warranty of any kind, express or implied, whatever title to such units of Equipment it may have;

(5) require Lessee at its own cost, expense and risk to remove, assemble, deliver and transport the units to Lessor without terminating any of Lessee's other obligations under this Lease Agreement;

(6) by notice to Lessee, declare this Lease Agreement terminated without prejudice to Lessor's rights in respect of obligations then accrued and remaining unsatisfied; or

(7) avail itself of any other remedy or remedies provided for by any statute or otherwise available at law, in equity, or in bankruptcy or insolvency proceedings.

The remedies herein set forth or referred to shall be cumulative. The references to additional rent in clauses (3) and (4) of this paragraph (b) shall each include, without limitation, interest at the applicable rate specified, in the first paragraph of Section 4, to the date of receipt by Lessor of the amount payable under said clause, on installments of rent owing hereunder to and including the rent payment date immediately preceding the date on which notice is given under said clause, from the respective due dates of such installments, and interest on all other costs, expenses and losses for which Lessor is entitled to payment under said clause from the respective dates incurred by Lessor.

18. SUBLEASE, ASSIGNMENT, MERGER, ETC. BY LESSEE

(a) So long as Lessee shall not be in default under this Lease Agreement, Lessee shall be entitled to the possession and use of the units of Equipment in accordance with the terms of this Lease Agreement, but, without the prior written consent of Lessor (which consent shall not be unreasonably withheld), Lessee shall not assign, transfer or sublet its leasehold interest under this Lease Agreement in the units or any of them. Lessee shall not, without the prior written consent of 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 paragraph (b) below.

(b) So long as Lessee shall not be in default under this Lease Agreement, Lessee shall be entitled to the possession of the units and to the use thereof upon its lines of railroad or upon the lines of any affiliate. Lessee agrees that during the term of this Lease the Equipment will not be used outside of the United States of America. No assignment or sublease entered into by Lessee hereunder shall relieve Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

(c) Nothing in this Section 18 shall be deemed to restrict the right of Lessee to assign or transfer its

leasehold interest under this Lease Agreement in the Equipment or possession of the Equipment to any corporation (which shall have expressly assumed in writing the due and punctual payment and performance of all obligations hereunder of Lessee) into or with which Lessee shall have become merged or consolidated or which shall have acquired or leased substantially all the property of Lessee as an entirety or substantially as an entirety, provided that such assignment is satisfactory to Lessor.

19. ASSIGNMENT BY LESSOR

Lessor and any direct or remote assignee of any right, title or interest of Lessor hereunder shall have the right at any time or from time to time to assign part or all of its right, title and interest in and to this Lease Agreement. Without limiting the foregoing, Lessor and any such assignee shall have the right at any time or from time to time to transfer, subject to Lessee's rights under this Lease Agreement, any unit or units of Equipment.

Lessor may obtain financing through a financial institution and secure such financial institution ("Secured Party") by granting a security interest or other lien on any or all of the Equipment, this Lease Agreement and sums due under this Lease Agreement. In such event (a) the security agreement or lien instrument will specifically provide that it is subject to Lessee's rights as herein provided; (b) such assignment of this Lease Agreement will not relieve Lessor from its obligations hereunder or be construed to be an assumption by Secured Party of such obligations (but Secured Party may perform, at its option, some or all of Lessor's obligations); (c) upon request by Secured Party, Lessee will make all payments of rental and other amounts due hereunder directly to Secured Party; (d) Lessee's obligations hereunder, including (without limitation) its obligation to pay rent and other amounts due hereunder, shall not be subject to any reduction, abatement, defense, set off, counterclaim or recoupment for any reason whatsoever, which, however, shall not prevent Lessee from asserting any claim separately against Lessor; and (e) Lessee will not, after obtaining knowledge of any such assignment, consent to any modification of this Lease Agreement without the consent of Secured Party.

20. LESSOR'S RIGHT TO PERFORM

If Lessee fails to make any payments required by this Lease Agreement, or to perform any of its other agreements

contained herein, Lessor may itself, but shall not be required to, make any such payments or perform any such obligations. The amount of any such payment and Lessor's expenses, including (without limitation) reasonable legal fees and expenses in connection therewith and with such performance, shall thereupon be and become payable by Lessee to Lessor upon demand as additional rent hereunder.

21. RECORDING; FURTHER ASSURANCES

Lessee will, at its expense, (i) cause this Lease Agreement and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and (ii) file such Uniform Commercial Code financing statements in such counties and states as shall be required to perfect, to Lessor's satisfaction, Lessor's interest in the Equipment, all prior to the delivery and acceptance hereunder of any unit of Equipment. Lessee 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) such Uniform Commercial Code continuation statements and any and all further instruments required by law or reasonably requested by Lessor for the purpose of proper protection, to Lessor's satisfaction, of Lessor's interest in the units, or for the purpose of carrying out the intention of this Lease Agreement or the assignment thereof by Lessor; and Lessee will promptly furnish to Lessor evidences of all such filing, registering, recording or depositing, and an opinion or opinions of counsel for Lessee will respect thereto satisfactory to Lessor.

22. PURCHASE OPTION

Lessee shall have an option (the "Purchase Option") to purchase for cash all of the Equipment then under lease upon the last business day of or prior to the expiration of the lease term hereunder for such units of Equipment provided no event of default or event which might mature into an event of default has occurred and is then continuing hereunder. If Lessee desires to exercise the Purchase Option, it shall give to Lessor written notice of its election to purchase at least 90 days (and not more than 180 days) before the expiration of the lease term for such units of Equipment, stat-

ing Lessee's opinion as to the fair market value of the Equipment to be purchased, and upon expiration of such lease term, Lessee shall purchase such Equipment and shall pay to Lessor in immediately available funds the purchase price for such Equipment, determined as hereinafter provided. The purchase price of the Equipment shall be the fair market value thereof as of the date of purchase. If Lessee and Lessor are unable to agree upon the fair market value of the Equipment within 30 days after receipt by Lessor of such notice, such fair market value shall be determined by an independent appraiser selected by mutual agreement of Lessor and Lessee. Such appraiser shall determine fair market value by reference to prices prevailing between willing buyers and sellers under no obligation to buy or sell and such fair market value shall be substantiated to the extent possible by purchases and sales actually consummated in the market place. The fee of such appraiser shall be paid by Lessee. Upon payment by Lessee to Lessor of the purchase price for the Equipment at such expiration, and upon payment by Lessee of all rent and any other amounts owing to Lessor under this Lease Agreement, Lessor shall transfer to Lessee, without any representation or warranty of any kind, express or implied, whatever title to such Equipment Lessor may have.

23. RIGHT OF FIRST REFUSAL

Lessor intends to sell or otherwise dispose of the Equipment at the end of the end of the eight-year term of this Lease Agreement. However, in the event that circumstances change and Lessor decides to retain and re-lease the Equipment, Lessee shall have the right of first refusal to renew for two (2) additional terms of one (1) year each the lease term of all of the Equipment then under lease provided no event of default or event which might mature into an event of default has occurred and is then continuing immediately prior to the commencement of the renewal term then being elected by Lessee. If Lessee desires to exercise such option to renew, it shall give Lessor written notice of its election to renew at least 90 days (and not more than 180 days) prior to the commencement of the renewal term then being elected, stating Lessee's opinion as to the fair market rental value for the Equipment to be during such renewal term, and upon the expiration of the then current term the lease of such Equipment shall be renewed for such

renewal term at the fair market rental value as hereinafter determined. A determination shall be made of the fair market rental value of Equipment as of the date of the expiration of such current term. If Lessee and Lessor are unable to agree upon such fair market rental value within 30 days after receipt by Lessor of such notice, such fair market rental value shall be determined by an independent appraiser selected by mutual agreement of Lessor and Lessee. Such appraiser shall determine fair market rental value by reference to prices prevailing between willing lessors and lessees under no obligation to lease and such fair market rental value shall be substantiated to the extent possible by leases actually consummated in the market place. The fee of such appraiser shall be paid by Lessee. All of the provisions of the Lease shall be applicable during any such renewal term except for the amount of each installment of rent which shall be as hereinabove provided. "Lease term" as used in the Lease shall, except where the context otherwise requires, be deemed to include any such renewal term.

24. DEFINITION OF SUBSIDIARY

When used herein, the term "subsidiary" shall mean a corporation of which Lessee or its other subsidiaries own, directly or indirectly, such number of outstanding shares as have the power (disregarding any voting power, solely by reason of the happening of any default, of shares of any class) to elect a majority of the board of directors.

25. CONDITIONS TO LESSOR'S OBLIGATIONS

(a) Lessee shall not accept, as Lessor's agent, from any Manufacturer any Equipment unless at the date of such acceptance of any unit of Equipment:

(i) All of Lessee's representations and warranties in Section 8 of this Lease Agreement shall be true and correct as though made as of such date;

(ii) No litigation or governmental proceedings shall be threatened or pending against Lessee or any subsidiary which in Lessor's reasonable opinion may to a material extent adversely affect the

financial condition or continued operation of Lessee and its subsidiaries on a consolidated basis;

(iii) No event of default, or event which might mature into an event of default, shall have occurred or be continuing hereunder;

(b) Lessor shall not be obligated to make payment for any unit of Equipment hereunder unless at any date of acceptance for lease by Lessee of any such unit of Equipment and request for payment by Lessor therefor (each such date being hereinafter called an Acceptance and Requested Payment Date) Lessee shall have furnished to Lessor, in form and substance satisfactor to Lessor the following:

(i) resolutions of the Board of Directors of Lessee, certified by its Secretary or an Assistant Secretary, the relevant Acceptance and Payment Date, authorizing the lease of such Equipment hereunder and the execution, delivery and performance by Lessee of the Purchase Agreement, the Assignment and this Lease Agreement;

(ii) a favorable opinion of counsel for Lessee, dated the relevant Acceptance and Requested Payment Date, acceptable to Lessor, to the effect that as of the acceptance of the relevant units of Equipment by Lessee pursuant to Section 25(a) hereof:

(A) Lessee is a corporation duly organized and existing in good standing under the laws of the State of Delaware;

(B) Lessee is duly authorized to execute and deliver the Purchase Agreements, the Assignment and this Lease Agreement, and is duly authorized to lease Equipment hereunder and to perform its obligations hereunder and thereunder;

(C) The execution and delivery of the Purchase Agreements, the Assignment and this

Lease Agreement by Lessee, and the performance by Lessee of its obligations hereunder and thereunder, do not and will not conflict with any provision of law or of the charter or by-laws of Lessee or of any indenture, mortgage, deed of trust or agreement or instrument binding upon Lessee or to which Lessee is a party;

(D) The execution, delivery and performance of the Purchase Agreements, the Assignment and this Lease Agreement by Lessee and the consummation by Lessee of the transaction contemplated hereby and thereby does not require the consent, approval or authorization of, or notice to, any Federal or State governmental authority or public regulatory body;

(E) The Purchase Agreements, the Assignment and this Lease Agreement are the legal, valid and binding obligations of Lessee enforceable in accordance with their respective terms (except as may be affected by bankruptcy, reorganization, insolvency and similar laws affecting the rights of creditors generally);

(F) There are to the knowledge of such counsel no pending or threatened actions or proceedings before any court or administrative agency which may, in the opinion of such counsel, to a material extent adversely affect the financial condition or continued operation of Lessee and its subsidiaries on a consolidated basis;

(G) This Lease Agreement has been duly filed and recorded with the ICC pursuant to Section 20c of the Interstate Commerce Act and all requisite filings of financing statements with respect to the Equipment under the Uniform Commercial Code in all appropriate jurisdictions have been made, such filings and recordings will protect Lessor's inter-

ests in and to the units of Equipment, and no further filing or recording (or giving of notice) with any other Federal, state or local government is necessary in order to protect the interests of Lessor in and to the units;

(H) Lessee has delivered all waivers, releases or other documents required to insure that the Equipment which has been or will be delivered to Lessee pursuant to the Lease Agreement is not and will not become (1) subject to any lien (including, without limitation the liens of the owners of the railroad cars upon which the Equipment has been or will be placed), (2) fixtures to any real estate, or (3) accessions to any personalty (including, without limitation, accessions to the railroad cars upon which the Equipment has been or will be placed); and

(I) Acceptance by Lessor of the units of Equipment for which payment is requested and payment therefor by Lessor shall be effective to transfer to Lessor good title to such units of Equipment, free of all claims, liens or encumbrances of any nature;

(iii) appraisal certificates (required only with the first payment requested hereunder for any units of Equipment) issued by: (A) Mr. Alex Kerr, an independent appraiser, to the effect that (1) the Equipment on the date of delivery thereof to Lessor will have an estimated useful life of at least two years beyond the expiration of the term of lease for the Equipment under this Lease Agreement and an estimated fair market value at the end of term of at least 20% of Lessor's Cost of Equipment for such Equipment, without including in such fair market value any increase or decrease for inflation or deflation during such term of the Lease, and (2) setting forth the manner in which such useful life and fair market value were determined, and (B) the Assistant Vice-President and Chief Engineer of Lessee to the effect stated in clause (A)(1) above;

(iv) an invoice addressed to Lessor covering the units of Equipment for which such payment is requested;

(v) a Certificate of Acceptance signed by an officer of Lessee (as the authorized representative of Lessor hereunder) confirming delivery to, and acceptance by, Lessor of the units of Equipment for which such payment is requested;

(vi) a Certificate of Acceptance of Lessee covering the units of Equipment for which such payment is requested; and

(vii) such other releases, financing statements, waivers and other documents as are required to insure that the Equipment will not be subject to any lien, charge, encumbrance, security interest or other similar interest.

26. COMMENCEMENT DATE

On the Commencement Date Lessee shall furnish to Lessor in form and substance satisfactory to Lessor:

(a) A certificate of the President or a Vice President and the Treasurer or an Assistant Treasurer of the Lessee, dated such Commencement Date, to the effect that:

(i) All of Lessee's representations and warranties in Section 8 of this Lease Agreement are true and correct as though made as of such date;

(ii) No litigation or governmental proceedings are threatened or pending against Lessee or any subsidiary which will, in the opinion of such officers, to a material extent adversely affect the financial condition or continued operation of Lessee and its subsidiaries on a consolidated basis;

(iii) No event of default, or event which might mature into an event of default, has occurred and is continuing hereunder;

(iv) Since the date of this Lease Agreement, there has been no material adverse change in the financial condition of the Lessee from that shown by the financial statement referred to in subsection (e) of Section 8 hereof; and

(v) The Equipment has been delivered to and accepted by Lessee for lease under this Lease Agreement, and the Lease Agreement is in full force and effect.

(b) Resolutions of the Board of Directors of Lessee, certified by its Secretary or an Assistant Secretary on such Commencement Date, authorizing the lease of such Equipment hereunder and the execution, delivery and performance by Lessee of the Purchase Agreements, the Assignment and this Lease Agreement;

(c) An opinion of counsel for Lessee, acceptable to Lessor, dated such Commencement Date and addressed to Lessor, to the same effect as the opinion given to Lessor pursuant to Section 25(b)(ii) hereof; and

(d) Such other documents and evidence with respect to the Purchase Agreements, the Assignment and this Lease Agreement as Lessor may reasonably request in order to establish the consummation of the transactions contemplated by the Purchase Agreements, the Assignment and this Lease Agreement, the taking of all corporate proceedings in connection therewith and herewith and compliance with all conditions set forth in the Purchase Agreements, the Assignment and this Lease Agreement.

27. MISCELLANEOUS

(a) If there is a Change in Tax Law (as defined in paragraph (b) of this Section 27), which occurs prior to the date of delivery and acceptance of any unit of Equipment, or which is enacted or issued after but is effective retroactively to a date on or prior to such date of delivery and acceptance, the rental rate specified in Section 4 hereof shall be adjusted as to such unit in an amount sufficient to yield to Lessor the same total net after tax cash flow and annual rate of return as would have been realized by Lessor as to such unit in

respect of this Lease if such Change in Tax Law had not occurred; provided, however, that in making any such adjustments, any increased tax benefits arising from this transaction which become available to Lessor as a result of a Change in Tax Law described in clause (B) of Section 27(b) hereof, enacted subsequent to the delivery and acceptance of such unit of Equipment, shall be taken into account only as, if and when such benefits actually are realized, it being understood that Lessor shall not be obligated to use or claim any such increased tax benefits, but nevertheless Lessor shall use its best efforts to use such increased tax benefits (limited, however, to depreciation deductions and investment tax credits of the type contemplated in the pricing of this transaction) in its current taxable year to the extent such use is consistent with its established policy.

(b) The term "Change in Tax Law" as used in this Lease Agreement shall mean (i) an amendment to the Code which changes the Federal income tax rate (in excess of the corporate surtax exemption) of Lessor from 48%, or (ii) any amendment, modification, addition or change made in or to the provisions of the Code, the Treasury Regulations under the Code, published Internal Revenue Service Revenue Procedures, Revenue Rulings or other administrative interpretations, or applicable judicial precedents, which, in the opinion of Lessor or in the opinion of its counsel, (A) might preclude Lessor from taking (x) investment credit on a unit of Equipment at the rate of 10% on Lessor's Cost of Equipment or (y) depreciation deductions on Lessor's Cost of Equipment over a depreciable life of 8 years to a net salvage value of 12% thereof, computed under the double declining balance method of depreciation provided in Section 167(b)(2) of the Code, with the annual allowance determined without reduction for salvage; or (B) will increase (i) the amount of the investment credit referred to in clause (A)(x) above, or (ii) the amount of the depreciation deductions referred to in clause (A)(y) above or the rate at which such deductions may be taken.

(c) Any provision in this Lease Agreement that Lessee shall take any action shall require Lessee to do so at its sole cost and expense.

(d) Any notice hereunder shall be in writing and, if mailed, shall be deemed to be given when sent by registered or certified mail, postage prepaid, and

addressed: (i) if to Lessee, at its address shown below, (ii) if to Lessor, at 231 South LaSalle Street, Chicago, Illinois 60693 or (iii) to any party at such other address as it may, by written notice received by the other, designate as its address for purposes of notice hereunder.

(e) If this Lease Agreement or any provision hereof shall be deemed invalid, illegal, or unenforceable in any respect or in any jurisdiction, the validity, legality and enforceability of this Lease Agreement in other respects and other jurisdictions shall not be in any way impaired or affected thereby. Each of the parties hereto acknowledges that the other party shall not by act, delay, omission or otherwise be deemed to have waived any of its rights or remedies under this Lease Agreement unless such waiver is in writing, and such writing shall be binding only to the extent therein provided and only upon the party signing it. A waiver on any one occasion shall not be construed as a waiver on any future occasion. Without limiting the foregoing, Lessor's rights and Lessee's duties shall in no way be affected by Lessor's inspection of, or failure to inspect, the Equipment or any of the documents referred to in this Lease Agreement or by Lessor's failure to inform Lessee of any failure to comply with any of Lessee's obligations under this Lease Agreement. Lessee hereby waives any right to assert that Lessor cannot enforce this Lease Agreement or that this Lease Agreement is invalid because of any failure of Lessor to qualify to do business in any jurisdiction. This Lease Agreement has been delivered for acceptance by Lessor in Chicago, Illinois, shall be governed by the laws of the State of Illinois, shall be binding upon Lessor and Lessee and their respective successors and assigns, and shall inure to the benefit of Lessor and Lessee and the successors and assigns of Lessor and Lessee.

(f) The section headings in this Lease Agreement are for convenience of reference only and shall not be considered to be a part of this Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed and their corporate seals to be affixed hereto all as of the date first above written.

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY
(Lessee)

By _____
Title: VICE PRESIDENT-FINANCE

(CORPORATE SEAL)

Attest: _____
Assistant Secretary

Address:

400 West Madison Street
Chicago, Illinois 60606

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO,
not in its individual capacity
but as trustee under a Maintenance
of Way Leasing Trust Agreement.

(Lessor)

By _____
Title: Vice President

(CORPORATE SEAL)

ATTEST: _____
Title: TRUST OFFICER

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

On this 28th day of April, 1977, before me personally appeared J. M. Butler, to me personally known, who being by me duly sworn, says that he is VICE PRESIDENT-FINANCE of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

T J Bro
Notary Public

(SEAL)

My Commission Expires: May 21, 1978

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

On this 28th day of April, 1977, before me personally appeared DONALD W. ALFVIN, to me personally known, who being by me duly sworn, says that he is Vice Pres... of CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, one of the seals affixed to the foregoing instrument is the seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association not in its individual capacity but as trustee under a Maintenance of Way Leasing Trust Agreement by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association in the aforementioned capacity.

Notary Public

(SEAL)

My Commission Expires: NOVEMBER 16, 1977

EXHIBIT A

EQUIPMENT

QUANTITY	EQUIPMENT DESCRIPTION	CHICAGO AND NORTH WESTERN IDENTIFICATION NUMBER	APPROXIMATE COST
4	Switch Tampers	17-2861 17-2862 17-2863 17-2864	$ 526,550
4	Automatic Tampers EJ-6	17-2865 17-2866 17-2867 17-2868	$ 480,000
2	Tamper Compactors	17-2876 17-2877	$ 180,000
2	18 Ton Hy-rail Truck Cranes	17-2880 17-2881	$ 271,000
2	955 Loaders	17-2882 17-2883	$ 133,850
2	D6C Dozer	17-2884 17-2885	$ 162,450
1	JD350 Crawler Dozer	17-2886	$ 18,900

QUANTITY	EQUIPMENT DESCRIPTION	CHICAGO AND NORTH WESTERN IDENTIFICATION NUMBER	APPROXIMATE COST
12	Hy-rail Rubber Tired Tractor Mowers	17-2887 17-2888 17-2889 17-2890 17-2891 17-2892 17-2893 17-2894 17-2895 17-2896 17-2897 17-2898	$ 215,450
4	Ballast Regulators	17-2902 17-2903 17-2904 17-2905	$ 195,500
2	45-2 Rail Changers	17-2906 17-2907	$ 159,650
1	Speed Swings	17-2928	$ 76,900

QUANTITY	EQUIPMENT DESCRIPTION	CHICAGO AND NORTH WESTERN IDENTIFICATION NUMBER	APPROXIMATE COST
1	15 Ton Rubber Tired Hydraulic Crane	17-2929	$ 80,000
1	Core Drilling & Soil Sampling Unit	17-2923	$ 50,000
1	GO-4 Crossing Undercutter	17-2925	$ 84,250
		TOTAL:	$2,634,500

EXHIBIT B

CERTIFICATE OF ACCEPTANCE

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO
231 South LaSalle Street
Chicago, Illinois 60693

Gentlemen:

1. The undersigned officer of Chicago and North Western Transportation Company (the "Railroad Company") is your authorized representative designated under the Lease Agreement dated as of _____, 1977 between you (not in your individual capacity but as trustee under a Maintenace of Way Leasing Trust Agreement) and the Railroad Company. As such authorized representative, the undersigned hereby represents and certifies to you as follows:

(a) that the equipment described in Annex A hereto have been duly delivered in good order by _____ under the Purchase Agreements applicable thereto, have been duly inspected and accepted on the respective dates there shown by the undersigned as your authorized representative and conform in all respects to the requirements and specifications of the Purchase Agreements applicable thereto; and

(b) that each such unit of equipment was at its delivery properly marked on each side thereof with the legend provided in Section 9(e) of the Lease Agreement between you and the Railroad Company.

2. The undersigned, Chicago and North Western Transportation Company ("Lessee"), is the Lessee under the Lease Agreement hereinbefore described. As such Lessee, we hereby request you to pay the attached invoices for the purchase and delivery of the equipment described in Annex A hereto. We hereby represent and certify to you as follows:

(a) that all of our representations and warranties set forth in Section 8 of the Lease Agreement are true and correct as of the date hereof as though made on this date;

(b) that the equipment described on Annex A hereto have been delivered to us, as Lessee under the Lease Agreement, on the dates indicated and have been duly inspected and are hereby accepted by us for lease under the Lease Agreement; and

(c) that no event of default, or event which might mature into an event of default, has occurred and is continuing under the Lease Agreement.

3. This Certificate of Acceptance shall be and become a part of the Lease Agreement, and the equipment described on Annex A hereto are hereby declared to be leased by us thereunder. The Lease Agreement was filed and recorded with the Interstate Commerce Commission on _____, 1977 at __:__ _.M. with Recordation No. _____. All requisite filings of financing statements with respect to Equipment (as defined in the Lease Agreement) under the Uniform Commercial Code in all appropriate jurisdictions have been made.

_____
Officer and authorized representative, as aforesaid, and signing as to the matters in paragraph 1 above
Dated: _____, 1977

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, Lessee, and signing as to the matters in paragraphs 2 and 3 above

By_____
Its_____
Dated: _____, 1977

Accepted:

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO,
not in its individual capacity, but
as trustee under a Maintenance of
Way Leasing Trust Agreement.

By_____

Dated: _____, 1977

ANNEX A TO
CERTIFICATE OF ACCEPTANCE

DESCRIPTION OF EQUIPMENT

No. of Items	Equipment Description	Manufacturer	Lessee's Identifying Nos.	Chicago and North Western Railroad Car On Which Equipment Is To Be Placed, if Any	Invoice Amount

EXHIBIT C

STIPULATED LOSS VALUE
FOR
EQUIPMENT

"Stipulated Loss Value" of any unit of Equipment as of a particular date shall mean the product derived from multiplying (i) the percentage figure opposite the notation for the appropriate rental period set forth in the table appearing below by (ii) Lessor's Cost of Equipment applicable to such Equipment. Stipulated Loss Value does not include any amounts for which Lessor may be entitled to indemnification under Sections 13 or 14(a) of the Lease Agreement, but does include amounts necessary to indemnify Lessor for loss of depreciation benefits and the investment tax credit. These percentage figures will be appropriately adjusted in the event that Lessee has previously made indemnity payments to Lessor under Sections 14(b) or (c) of the Lease Agreement.

STIPULATED LOSS VALUE TABLE

	%
On or Before Rent Payment Date No..... 1	104.665905
Thereafter, But On or Before Rent Payment Date No..... 2	104.320183
Thereafter, But on or Before Rent Payment Date No..... 3	103.820085
Thereafter, But on or Before Rent Payment Date No..... 4	103.162814
Thereafter, But on or Before Rent Payment Date No..... 5	102.345521
Thereafter, But on or Before Rent Payment Date No..... 6	101.413447
Thereafter, But on or Before Rent Payment Date No..... 7	100.364510
Thereafter, But on or Before Rent Payment Date No..... 8	99.196593
Thereafter, But on or Before Rent Payment Date No..... 9	97.907542
Thereafter, But on or Before Rent Payment Date No..... 10	96.520011

Thereafter, But on or Before Rent Payment Date No.	11	95.032215
Thereafter, But on or Before Rent Payment Date No.	12	93.442341
Thereafter, But on or Before Rent Payment Date No.	13	85.071193
Thereafter, But on or Before Rent Payment Date No.	14	83.290215
Thereafter, But on or Before Rent Payment Date No.	15	81.420483
Thereafter, But on or Before Rent Payment Date No.	16	79.460390
Thereafter, But on or Before Rent Payment Date No.	17	77.408299
Thereafter, But on or Before Rent Payment Date No.	18	75.276520
Thereafter, But on or Before Rent Payment Date No.	19	73.063611
Thereafter, But on or Before Rent Payment Date No.	20	70.768102
Thereafter, But on or Before Rent Payment Date No.	21	61.711131
Thereafter, But on or Before Rent Payment Date No.	22	59.256387
Thereafter, But on or Before Rent Payment Date No.	23	56.725145
Thereafter, But on or Before Rent Payment Date No.	24	54.116018
Thereafter, But on or Before Rent Payment Date No.	25	51.427597
Thereafter, But on or Before Rent Payment Date No.	26	48.666306
Thereafter, But on or Before Rent Payment Date No.	27	45.830827
Thereafter, But on or Before Rent Payment Date No.	28	42.919813
Thereafter, But on or Before Rent Payment Date No.	29	33.269434
Thereafter, But on or Before Rent Payment Date No.	30	30.205882
Thereafter, But on or Before Rent Payment Date No.	31	27.069858
Thereafter, But on or Before Rent Payment Date No.	32	23.860000
Thereafter,		20.000000

EXHIBIT D

INSURANCE COVERAGE

In general, the Chicago and North Western Transportation Company currently assumes any and all casualty losses to a limit of $2,500,000 per occurrence. Above such amount, the Chicago and North Western Transportation Company maintains major casualty insurance coverage secured through the firm of Marsh and McLennan, Inc. and primarily underwritten by Lloyds of London and other British companies. Under the terms of the major casualty policy, all risks of physical damage and liability arising with respect to equipment of Chicago and North Western Transportation Company is covered in an amount of $6,500,000 or to a limit of $9,000,000 per occurrence. All risks of physical damage and liabilities with respect to property of or injury to third parties is covered in an additional amount of $31,000,000 to a total of $40,000,000 per occurrence.