St. Louis-San Francisco Railway Company
906 Olive Street — St. Louis, Missouri 63101 — (314) 241-7800

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CERTIFICATION UNIT

Donald E. Engle
Vice President and General Counsel

9240
RECORDATION NO. ..... Filed & Recorded

FEB 15 1978 -11 20 AM

INTERSTATE COMMERCE COMMISSION

February 13, 1978

88850-C (100)

Construction and Conditional Sale Agreement (No. 100) dated as of January 1, 1978, between St. Louis-San Francisco Railway Company and Mercantile Trust Company N.A.

8-046A054

FEB 15 1978

Washington, D. C.

Mr. H. G. Homme, Jr.
Acting Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Sir:

Pursuant to Section 20c of the Interstate Commerce Act and the rules and regulations thereunder, as amended, I enclose for filing and recordation the above numbered Construction and Conditional Sale Agreement.

Set out below are the names and addresses of the parties to the transaction:

Vendor:	St. Louis-San Francisco Railway Company 3253 East Trafficway Springfield, Missouri 65802
Assignee of Vendor:	Mercantile Trust Company N.A. Box 321, M.P.O. St. Louis, Missouri 63166

The equipment covered by the enclosed document consists of the following:

400 - Open-Top Hopper Cars, 100-ton, bearing Identifying Nos. SL-SF 88600-88999, both inclusive.

There is also enclosed this Company's check for $50.00, payable to the Interstate Commerce Commission, representing the recording fee as required by 49 CFR 1116.1.

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

Very truly yours,

Donald E. Engle

Donald E. Engle

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

2/15/78

OFFICE OF THE SECRETARY

Donald E. Engle
Vice Pres. & Gen. Counsel
St. Louis-San Francisco RYW. Company
906 Olive Street
St. Louis Missouri 63101

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 2/15/78 at 11:30am, and assigned recordation number(s) 9240

Sincerely yours,

H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)

RECORDATION NO. 9240 Filed & Recorded

FEB 15 1978 -11 20 AM

INTERSTATE COMMERCE COMMISSION

CONSTRUCTION AND CONDITIONAL SALE AGREEMENT

(No. 100)

Dated as of January 1, 1978,

Between

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

and

MERCANTILE TRUST COMPANY N.A.

CONSTRUCTION AND
CONDITIONAL SALE AGREEMENT

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SCHEDULE A--Specifications

CONSTRUCTION AND CONDITIONAL SALE AGREEMENT dated as of January 1, 1978, between St. Louis-San Francisco Railway Company, a Missouri corporation (hereinafter called the Railroad) and Mercantile Trust Company N.A., a national banking association organized and existing under the laws of the United States of America, acting as agent under a Finance Agreement dated as of January 1, 1978 (hereinafter called the Finance Agreement), for certain institutional investors (said Bank, so acting, being hereinafter called the Bank, and said investors being hereinafter called the Investors).

WHEREAS, the Railroad has agreed to construct, sell and deliver to the Bank, and the Bank has agreed to purchase, the equipment described in Schedule A hereto (hereinafter called the Equipment);

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

ARTICLE 1. Construction and Sale. Pursuant to this Agreement, the Railroad shall construct the units of the Equipment to be constructed by it as described in Schedule A hereto, and will sell and deliver to the Bank, and the Bank will purchase from the Railroad and accept delivery of and pay for (as hereinafter provided), the Equipment specified in Schedule A hereto, each unit of which shall be constructed in accordance with the specifications set forth therefor in said Schedule A and in accordance with such modifications thereof as may be agreed upon in writing between the Railroad and the Bank (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 of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to equipment of the character of such units of the Equipment and each unit of the Equipment (except to the extent, if any, referred to in Schedule A hereto and/or in Article 8 hereof) will be new railroad equipment.

ARTICLE 2. Inspection and Delivery. The Railroad will deliver the units of the Equipment to the Bank, freight charges, if any, prepaid, and, except as herein otherwise provided, in accordance with the delivery schedule set forth in Schedule A hereto.

The Railroad's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Railroad'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.

Notwithstanding the preceding provisions of this Article 2, any Equipment not delivered, accepted and settled for pursuant to Article 3 hereof on or before the Cut-Off Date (as defined in Article 4 hereof) shall be excluded herefrom. If any unit or units of Equipment shall be excluded from this Agreement pursuant to the immediately preceding sentence, the Railroad and the Bank shall execute an agreement supplemental hereto limiting this Agreement to the units of Equipment not so excluded herefrom.

The Railroad agrees to inspect all materials used in the construction of the Equipment in accordance with the standard quality control practices of the Railroad. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector or other authorized representative of the Bank (who shall be an officer or employee of the Railroad) for inspection and, if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or representative shall, acting for both the Bank as such authorized representative and for the Railroad, execute and deliver to the Bank and the Railroad 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 Bank and the Railroad and are marked in accordance with Article 7 hereof.

ARTICLE 3. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Schedule A hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Railroad and the Bank. The term "Purchase Price" as used herein

shall mean the base price or prices as so increased or decreased; provided, however, the Purchase Price for all the Equipment shall not exceed $11,369,400.

For the purpose of making settlement, the Equipment shall be divided into such number of groups of units of the Equipment, delivered to and accepted by the Bank (each such group being hereinafter called a Group), as the Railroad and the Bank may agree to.

The Bank, on each Closing Date fixed as hereinafter provided with respect to a Group of Equipment, shall pay to the Railroad, by bank check, the Purchase Price of such Group as stated in the invoice or invoices presented in respect of such Closing Date including any supplemental invoice as hereinafter provided for, provided that there shall have been delivered to the Bank at the time of delivery by the Railroad of the notice fixing the Closing Date with respect to such Group, the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to the Bank and to its special counsel hereinafter mentioned:

(a) A Bill of Sale from the Railroad to the Bank transferring to the Bank title to the units of the Equipment in such Group and warranting to the Bank that at the time of delivery to the Bank the Railroad had legal title to such units and good and lawful right to sell such units and that title to such units was free of all claims, liens, security interests and other encumbrances of any nature (other than those created by this Agreement) and the lien of the First Mortgage of the Railroad dated as of December 1, 1946 (hereinafter called the First Mortgage), which lien has been duly subordinated to the rights of the Bank under this Agreement, and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under this Agreement;

(b) A Certificate or Certificates of Acceptance with respect to the units of the Equipment in such Group;

(c) An invoice for the units of the Equipment in such Group and any supplemental invoice for which settlement is then being made, in each case accompanied by or having endorsed thereon a certification by the Railroad

as to the correctness of the prices of such units as set forth in said invoice and that such prices do not exceed the lesser of the fair value of such units or the price which an independent car builder would charge for similar equipment;

(d) An opinion of Messrs. Cravath, Swaine & Moore, who are acting as special counsel for the Bank, dated as of the Closing Date, stating that (i) the Finance Agreement, assuming due authorization, execution and delivery by the Investors, has been duly authorized, executed and delivered and is a legal, valid and binding instrument enforceable in accordance with its terms, (ii) this Agreement has been duly authorized, executed and delivered and is a legal, valid and binding instrument enforceable in accordance with its terms, (iii) this Agreement has been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Bank in any State of the United States of America or in the District of Columbia, (iv) security title to the units of the Equipment in such Group is validly vested in the Bank, free of all claims, liens, security interests and other encumbrances (other than those created by this Agreement) and the lien of the First Mortgage, which lien has been duly subordinated to the rights of the Bank under this Agreement, (v) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of this Agreement, (vi) registration of this Agreement or any certificates of interest delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended, and (vii) the opinion of counsel for the Railroad referred to in subparagraph (e) below is satisfactory in form and scope to said special counsel and in their opinion the Bank and the Investors are justified in relying thereon; and such opinion shall also cover such other matters as may reasonably be requested by the Bank or the Investors; and

(e) A favorable opinion of counsel for the Railroad dated as of the Closing Date, to the effect set forth in clauses (i), (ii), (iii), (iv), (v) and (vi) of subparagraph (d) above and stating that (i) the Railroad is a duly organized and existing corporation

in good standing under the laws of its state of incorporation and has the power and authority to own its properties and to carry on its business as now conducted; and (ii) the execution and delivery by the Railroad of this Agreement and the Finance Agreement do not violate any provision of any law, any order of any court or governmental agency, the charter or By-laws of the Railroad, or any indenture, agreement, or other instrument to which the Railroad is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute, with due notice or lapse of time or both, a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad;

(f) A Certificate of a Vice President of the Railroad, dated as of such Closing Date, to the effect that (i) no event of default as specified in this Agreement or any event which with the lapse of time and/or notice provided for in this Agreement would constitute such an event of default has occurred and is continuing, and (ii) no Federal tax liens (including tax liens filed pursuant to Section 6323 of the Internal Revenue Code of 1954, as amended) and to the best of his knowledge and belief no other tax liens have been filed and are currently in effect which would adversely affect the title of the Bank to the Equipment; and

(g) a release or releases in recordable form discharging and terminating all claims, liens, security interests and other encumbrances, if any, in the units of the Equipment in such Group and in any of the materials used in the construction thereof, which originated prior to the recording of this Agreement pursuant to Article 19 hereof.

Any opinion delivered hereunder on any Closing Date after the first Closing Date may, with respect to any matters covered by an earlier opinion of the same counsel, confirm such earlier opinion without restating the contents thereof. In giving the opinions hereinabove specified in subparagraphs (d) and (e) of this Article 3, counsel may qualify any opinion to the effect that any agreement is a valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to

enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in said subparagraph (d), counsel may rely, as to any matter governed by the law of any jurisdiction other than New York or the United States, on the opinion of counsel for the Railroad as to such matter.

In the event that on the Closing Date the final Purchase Price of any Group has not been finally determined, the invoice presented may be for an estimated Purchase Price, subject to adjustment upon determination of the final Purchase Price, and a supplemental invoice may be presented at least 10 days prior to any subsequent Closing Date for settlement on such subsequent Closing Date for any increase in the Purchase Price; it being understood and agreed by the Railroad that any prior preliminary invoice or invoices presented by the Railroad shall be in amount not in excess of the final Purchase Price of such Group.

The obligation of the Bank hereunder to make payment for any Group is hereby expressly conditioned upon the Bank having on deposit, pursuant to the Finance Agreement, sufficient funds available to make such payment.

ARTICLE 4. Conditional Sale to Railroad. Upon completion of the sale by the Railroad to the Bank of a Group of Equipment pursuant to Articles 1, 2 and 3 of this Agreement, the Bank will sell and deliver to the Railroad and the Railroad will purchase from the Bank and accept delivery of and pay for such Group of Equipment as hereinafter provided. Delivery of such Group shall be made by the Bank to the Railroad at the point or points at which such Group shall have been delivered by the Railroad to the Bank pursuant to Article 2 of this Agreement. The portion of the Purchase Price of such Group payable by the Railroad to the Bank, as hereinafter provided, shall be the same as that portion of the Purchase Price as shall have been paid by the Bank pursuant to Article 3 of this Agreement and the method of payment thereof shall be as hereinafter provided.

On delivery of each unit hereunder at the place specified for delivery, the Railroad will assume the responsibility and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit.

The Railroad hereby acknowledges itself to be indebted to the Bank in the amount of, and hereby promises to pay in cash to the Bank at such place as the Bank may designate, the portion of the Purchase Price of the Equipment as shall have been paid by the Bank pursuant to Article 3 of this Agreement in 30 consecutive equal (except for appropriate adjustment of the final instalment in case the amount payable pursuant to this paragraph shall not, when divided by 30, result in an amount ending in an integral cent) semiannual instalments (the aggregate of said instalments being hereinafter called the Conditional Sale Indebtedness).

The instalments of the Conditional Sale Indebtedness payable pursuant to the immediately preceding paragraph shall be payable semiannually on March 1 and September 1 in each year commencing March 1, 1979, to and including September 1, 1993. The unpaid portion of the Conditional Sale Indebtedness shall bear interest from the respective Closing Dates on which such indebtedness was incurred at the rate of 8-3/4% per annum. All such interest shall be payable, to the extent accrued, on March 1 and September 1 in each year, commencing September 1, 1978.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date (on or after February 15, 1978, and prior to March 1, 1979 [hereinafter called the Cut-Off Date]), not more than ten business days following presentation by the Railroad to the Bank of the invoice and the Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Railroad by written notice delivered to the Bank at least five 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 St. Louis, Missouri, or New York, New York, are authorized or obligated to remain closed.

All interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months.

The Railroad will pay, to the extent legally enforceable, interest at the rate of 9-3/4% per annum upon all amounts remaining unpaid after the same shall have become

due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

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 8 hereof, the Railroad shall not have the privilege of prepaying any instalment of its indebtedness hereunder prior to the date it becomes due.

In the event the Bank, pursuant to Article 15 hereof, assigns the right to receive the payments herein provided to be made by the Railroad, the assignee thereof may request the Railroad to make and the Railroad shall make such payments to it at such address as shall be supplied to the Railroad by the assignee.

ARTICLE 5. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Bank for collection or other charges and will be free of expense to the Bank with respect to the amount of any local, state, federal or foreign taxes (other than net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales or use taxes], excess profits and similar taxes) 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, 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 impositions the Railroad assumes and agrees to pay on demand. The Railroad will also pay promptly all impositions which may be imposed upon the Equipment or for the use or operation thereof or upon the earnings arising therefrom or upon the Bank solely by reason of its ownership thereof 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 title of the Bank or result in a lien upon any part of the Equipment; provided, however, that the Railroad 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 proceedings such impositions and the nonpayment thereof does not, in the opinion of the Bank, adversely affect the property or rights of the Bank

in or to the Equipment or otherwise under this Agreement. If any such impositions shall have been charged or levied against the Bank directly and paid by the Bank, the Railroad shall reimburse the Bank upon presentation of an invoice therefor, and any amounts so paid by the Bank shall be secured by and under this Agreement; provided, however, that the Railroad shall not be obligated to reimburse the Bank for any impositions so paid unless the Bank shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Bank) or unless the Railroad shall have approved the payment thereof.

ARTICLE 6. Title to the Equipment. After each sale by the Railroad to the Bank of Equipment, the Bank shall and hereby does retain the full legal title to and property in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 8 hereof, when and only when the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, shall have been paid by the Railroad, and all the Railroad's obligations herein contained shall have been performed by the Railroad, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Bank. However, the Bank, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring its title thereto and property therein to the Railroad, or upon its order, free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address referred to in Article 21 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 Railroad to the Equipment and (c) pay to the Railroad any money paid to the Bank pursuant to Article 8 hereof and not theretofore applied as therein provided. The Railroad 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 bill or bills of sale or 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 bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 7. Marking of the Equipment. The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule A hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the name of the Bank followed by the word "Owner", or other appropriate markings approved by the Bank, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Bank's title to and property in the Equipment and its rights under this Agreement. The Railroad will not place any such unit in operation or exercise any control or dominion over the same until such markings have been made thereon and will replace promptly any such markings which may be removed, defaced or destroyed. The Railroad will not change the number of any unit of the Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Bank by the Railroad and filed, recorded and deposited by the Railroad in all public offices where this Agreement shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Railroad 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 Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates.

ARTICLE 8. Casualty Occurrences; Insurance. In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, irreparably damaged or otherwise rendered permanently unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences), the Railroad shall promptly and fully inform the Bank in regard thereto (after it has knowledge of such Casualty Occurrence). When the aggregate Casualty Value (as defined herein and in the Other Agreement, as hereinafter defined) of all units of the Equipment and all units of railroad equipment covered by the Conditional Sale Agreement dated as of January 1, 1978, between the Railroad and each of PACCAR INC., and Portec, Inc. (Paragon Division) (said Conditional Sale Agreement being herein called the Other Agreement), having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made pursuant to this Article 8 or Article 8 of the Other Agreement) shall exceed $100,000, the Railroad, within 30 days after it has knowledge of such event, shall promptly pay to the Bank a sum equal to the aggregate Casualty Value of such units of the Equipment as of the date of such payment and shall file with the Bank a certificate of an officer of the Railroad setting forth the Casualty Value of each unit of the Equipment suffering a Casualty Occurrence.

Any money paid to the Bank pursuant to the preceding paragraph of this Article 8 shall, as the Railroad may direct in a written instrument filed with the Bank, be applied (so long as no event of default shall have occurred and be continuing), in whole or in part, to prepay instalments of Conditional Sale Indebtedness or toward the cost of a unit or units of standard-gauge railroad rolling stock (other than passenger or work equipment of types other than locomotives) first put into service no earlier than the date of this Agreement, to replace units suffering a Casualty Occurrence. In case any money is applied to prepay indebtedness, it shall be so applied, on the instalment date for the payment of Conditional Sale Indebtedness next following receipt by the Bank of such written direction, to reduce pro rata instalments thereafter falling due.

The Casualty Value of each unit of the Equipment (other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the amount paid by the Bank for such unit pursuant to Article 3 hereof as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the original Conditional Sale Indebtedness. The Casualty Value of each replacement unit shall be deemed to be that amount which bears the same ratio to the portion of the cost thereof paid by the Railroad as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid Conditional Sale Indebtedness (without giving effect to any such prepayments) as of the date of acquisition of such replacement unit.

The Railroad will cause any replacement unit or units to be marked as provided in Article 7 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement. Title to all such replacement units shall be free and clear of all liens and encumbrances except the liens permitted by the second paragraph of Article 12 hereof and shall be taken initially and shall remain in the name of the Bank subject to the provisions hereof, and the Railroad shall execute, acknowledge, deliver, file, record or deposit all such documents and do any and all such acts as may be necessary to cause such replacement units to come under and be subject to this Agreement and to protect the title of the Bank to such replacement units. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment.

Whenever the Railroad shall file with the Bank a written direction to apply amounts toward the cost of any replacement unit or units, the Railroad shall file therewith:

(1) a certificate of a Vice President or the Controller or other Chief Accounting Officer of the

Railroad certifying that such replacement unit is standard-gauge railroad rolling stock (other than work or passenger equipment of types other than locomotives) first put into service no earlier than January 1, 1978, with a remaining useful life at least as long as the equipment being replaced and has been marked as required by the provisions of Article 7 hereof and certifying, in the event such replacement unit is new equipment, the cost of such replacement unit and, in the event such replacement unit shall be equipment theretofore used in railroad service, the fair value thereof and the original cost thereof and that the cost to the Bank does not exceed the lesser of the fair value thereof or the original cost thereof less depreciation at a rate of 6% per annum; and

(2) an opinion of counsel for the Railroad that title to such replacement unit is vested in the Bank free and clear from all claims, liens, security interests and other encumbrances except the rights of the Railroad under this Agreement, and that such unit has come under and become subject to this Agreement and all necessary filings and recordings have been made to perfect the interests of the Bank therein.

So long as no event of default shall have occurred and be continuing, any money paid to the Bank pursuant to this Article 8 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in such of the following as may be specified in such written direction: (i) direct obligations of the United States of America or obligations for which the faith of the United States is pledged to provide for the payment of principal and interest, (ii) open market commercial paper rated A-1 or A-2 by Standard & Poor's Corporation or prime-1 or prime-2 by NCO/Moody's Commercial Paper Division of Moody's Investors Service, Inc., or the successor of either of them, or (iii) certificates of deposit of commercial banks in the United States of America having a capital and surplus aggregating at least $50,000,000, in each case maturing in not more than one year from the date of such investment (such investments being hereinafter called Investments). Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest received by the Bank on any Investments shall be held by the Bank and applied as hereinafter provided. Upon any sale or the

maturity of any Investments, the proceeds thereof, plus any interest received by the Bank thereon, up to the cost (including accrued interest) thereof, shall be held by the Bank for application pursuant to this Article 8, and any excess shall be paid to the Railroad. If such proceeds (plus such interest) shall be less than such cost, the Railroad will promptly pay to the Bank an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Bank in connection with the purchase and sale of Investments.

If one or more events of default shall have occurred and be continuing, all money held by the Bank pursuant to this Article 8 (including, for this purpose, Investments) shall be applied by the Bank as if such money were money received upon the sale of Equipment pursuant to Article 17 hereof.

In order to facilitate the sale or other disposition of any Equipment suffering a Casualty Occurrence, the Bank shall, upon request of the Railroad, after payment by the Railroad of a sum equal to the Casualty Value of such Equipment, execute and deliver to the Railroad or the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Agreement, in such form as may be reasonably requested by the Railroad.

The Railroad will at all times prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at its own expense, cause to be carried and maintained insurance in respect of the Equipment at the time subject hereto in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Railroad on similar equipment owned by it.

ARTICLE 9. Maintenance; Compliance with Laws and Rules. The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair at its own expense, normal wear and tear excepted.

During the term of this Agreement, the Railroad will at all times comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules

of the Department of Transportation, 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 addition of any part on any unit of the Equipment, the Railroad will conform therewith, at its own expense; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Bank, adversely affect the property or rights of the Bank under this Agreement.

ARTICLE 10. Reports and Inspections. On or before March 31 in each year, commencing with the year 1979, the Railroad shall furnish to the Bank an accurate statement signed by an officer of the Railroad (a) setting forth as at the preceding December 31 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) or that have been withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Equipment as the Bank 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 7 hereof have been preserved or replaced. The Bank shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto at such reasonable times as the Bank may request during the term of this Agreement.

ARTICLE 11. Possession and Use. The Railroad, so long as an event of default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Railroad, or over which it has trackage rights, or upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, from and after delivery of the Equipment by the Bank to the Railroad, but only upon and subject to all the terms and conditions of this Agreement; provided, however, that the Railroad shall not be entitled to assign the Equipment for regular use outside of the United States of America.

ARTICLE 12. Prohibition Against Liens. The Railroad will pay or discharge any and all sums claimed by any party from, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien, charge or security interest on the Equipment, or any unit thereof, equal or superior to the Bank's title thereto or property or interest therein; provided, however, that the Railroad shall be under no obligation to pay or discharge any such claim so long as it is contesting in good faith and by appropriate legal proceedings such claim and the nonpayment thereof does not, in the opinion of the Bank, adversely affect the property or rights of the Bank in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Bank 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.

ARTICLE 13. Railroad's Indemnities, Representation and Warranties. The Railroad agrees to indemnify, protect and hold harmless the Bank from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees arising out of retention by the Bank of title to the Equipment, the use and operation thereof by the Railroad during the period when title thereto remains in the Bank or the transfer of title to the Equipment by the Bank pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

The Railroad will bear the risk of, and shall not be released from its obligations under the Agreement in the event of, any damage to or the destruction or loss of any unit of the Equipment.

The Railroad represents that it is not entering into this Agreement directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

The Railroad warrants that the Equipment will be built in accordance with the requirements, specifications and standards set forth or referred to in Article 1 hereof and warrants that the Equipment will be free from defects in material and workmanship under normal use and service.

ARTICLE 14. Patent Indemnities. The Railroad agrees to indemnify, protect and hold harmless the Bank from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Bank or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right.

ARTICLE 15. Assignments. The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Bank. An assignment, transfer or disposition to a railroad company organized under the laws of the United States of America or any of the states thereof which shall acquire all or substantially all the lines of railroad of the Railroad, and which, by execution of an appropriate instrument satisfactory to the Bank, shall assume and agree to perform each of, and all, the obligations and covenants of the Railroad under this Agreement, shall not be deemed a breach of this covenant, provided such railroad company immediately after such acquisition shall have capital and surplus aggregating at least that of the Railroad immediately prior to such acquisition.

All or any of the rights, benefits and advantages of the Bank under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Bank and reassigned by any assignee at any time or from time to time.

Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, 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 of the Bank'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 Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

In the event of any such transfer or assignment, or successive transfers or assignments by the Bank, of title to the Equipment and of the Bank's rights hereunder with respect thereto, the Railroad will, whenever requested by such transferee or assignee, change the markings to be placed on each side of each unit of the Equipment so as to indicate the title of such transferee or assignee to the Equipment, such markings to be such as shall be specified by such transferee or assignee, subject to any requirements of the laws of the jurisdictions in which the Equipment shall be operated by the Railroad.

ARTICLE 16. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any indebtedness in respect of the Purchase Price of the Equipment or any other sum payable by the Railroad as provided in this Agreement within five days after payment thereof shall be due hereunder; or

(b) the Railroad shall, for more than 30 days after the Bank shall have demanded in writing performance thereof, fail or refuse to comply with any 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 or performed or to make provision satisfactory to the Bank 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 Railroad 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 Railroad under this Agreement 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 proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable 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 Railroad under this Agreement 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 Railroad or for its 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 Railroad shall make or suffer 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; or

(f) an event of default shall occur under the Other Agreement;

then at any time after the occurrence of such an event of default the Bank may, upon written notice to the Railroad

and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Bank, declare (hereinafter called a Declaration of Default) the entire indebtedness in respect of the Purchase Price of the Equipment, 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. The Bank shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated. The Railroad shall promptly notify the Bank of any event which has come to its attention which constitutes, or which with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

The Bank may at its election waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Railroad 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 had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad 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 17. Remedies. At any time during the continuance of a Declaration of Default, the Bank may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Bank, 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 Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's

premises or any other premises where the Equipment may be located (without judicial process if this can be done without breach of the peace) 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 Railroad.

In case the Bank shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad for the delivery of the Equipment to the Bank, the Railroad shall, at its own expense, 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 part of the Equipment has been interchanged to return the Equipment so interchanged), cause (a) the Equipment to be moved to such point or points on its lines as shall be designated by the Bank and shall there deliver the Equipment or cause it to be delivered to the Bank and (b) the Equipment to be moved to such interchange point or points of the Railroad as shall be designated by the Bank upon any sale, lease or other disposal of all or any part of the Equipment by the Bank. At the option of the Bank, the Bank may keep the Equipment on any of the lines or premises of the Railroad until the Bank shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Bank reasonably convenient to the Railroad and, at the Railroad's risk, to permit inspection of the Equipment by the Bank, the Bank's representatives and prospective purchasers 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 Bank shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Bank 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 Bank (after retaking possession of the Equipment as hereinbefore in this Article 17 pro-

vided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Bank shall deem fit. Written notice of the Bank's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Article 21 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 Bank 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 Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Bank as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Bank the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Bank in retaking possession of, removing and storing the Equipment and the Bank's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad; provided, further, that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Bank within 30 days from the receipt of notice of the Bank's election to retain the Equipment, then the Bank 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 Bank shall have given no 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 17.

At any time during the continuance of a Declaration of Default, the Bank, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or any other party claiming from,

through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Bank may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Bank in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Bank's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Bank in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Bank under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Bank 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 Bank may determine. The Bank or the Railroad may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 21 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 right of the Railroad to purchase or provide a purchaser, within ten 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 Bank shall be the purchaser of the Equipment, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Bank shall be entitled to have credited on account thereof all or any part of the sums due to the Bank from the Railroad hereunder.

Each and every power and remedy hereby specifically given to the Bank 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 expedient by the Bank. 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 Bank 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 Railroad shall not otherwise alter or affect the Bank's rights or the Railroad's obligations hereunder. The Bank's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Bank's rights hereunder with respect to any subsequent payments or default therein.

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

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

The foregoing provisions of this Article 17 are

subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 18. 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 Railroad 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.

Except as otherwise provided in this Agreement, the Railroad, 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 unit 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 Bank's rights under this Agreement and any and all rights of redemption.

ARTICLE 19. Recording. The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act; and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Bank for the purpose of proper protection, to the satisfaction of counsel for the Bank, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Bank certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Bank.

ARTICLE 20. Payment of Expenses. The Railroad will pay all reasonable costs and expenses, including the fees and expenses of counsel for the Bank, incident to this Agreement (including the fees and expenses of the Bank, as agent under the Finance Agreement) and any instrument supplemental or related hereto or thereto, including all fees and expenses of counsel for the Bank and for any party acquiring interests under the Finance Agreement, and all reasonable

costs and expenses in connection with the transfer by any party of interests acquired thereunder.

ARTICLE 21. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) to the Railroad, at 3253 East Trafficway, Springfield, Missouri 65802,

(b) to the Bank, 721 Locust Street, St. Louis, Missouri 63101, Attention of O. A. Johnson, Vice President (mailing address at Box 321, M.P.O., St. Louis, Missouri 63166), and

(c) to any assignee of the Bank or of the Railroad, at such address as may have been furnished in writing to each of the other parties hereto 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 22. Article Headings; E fect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Schedules hereto, exclusively states the rights of the Bank and the Railroad 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 officers of the Bank and the Railroad.

ARTICLE 23. Law Governing. The Railroad warrants that its chief place of business and its chief executive offices are located in the state specified in clause (a) of Article 21 hereof. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of such state; 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 Agree-

ment or any assignment hereof shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking of the units of Equipment as provided in Article 7 hereof.

ARTICLE 24. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY,

by Donald E. Engle
Vice President

[Corporate Seal]

Attest:
Assistant Secretary

MERCANTILE TRUST COMPANY N.A.,

by O. A. Johnson Jr.
Vice President

[Corporate Seal]

Attest:
Victor Zarrill
Assistant Secretary

STATE OF MISSOURI,)
) ss.:
CITY OF ST. LOUIS,)

On this 14th day of February 1978, before me personally appeared DONALD E. ENGLE, to me personally known, who, being by me duly sworn, says that he is a Vice President of ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

James T. Hanks
Notary Public

[NOTARIAL SEAL]

My Commission expires June 30, 1980

STATE OF MISSOURI,)
) ss.:
CITY OF ST. LOUIS,)

On this 13th day of February 1978, before me personally appeared O. A. JOHNSON, JR., to me personally known, who, being by me duly sworn, says that he is a Vice President of MERCANTILE TRUST COMPANY N.A., that one of the seals affixed to the foregoing instrument is the corporate seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking 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 national banking association.

Berrien Elwes Starr
Notary Public
Berrien Elwes Starr

[NOTARIAL SEAL]

My Commission expires 7/21/80

SCHEDULE A

Type	AAR Mechanical Designation	Quantity	Specifications	Railroad's Plant	Road Nos. (both inclusive)	Unit Base Price	Total Base Price	Estimated Time of Delivery
Open Top Hopper Cars, 100-ton	HT	400	R.R. No. 973	Springfield, Missouri	SL-SF 88600-88999	$28,423.50	$11,369,400	February-July 1978