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JAN 17 1979

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INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

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The Chesapeake and Ohio Railway Company
Lease Financing Dated as of December 1, 1978
Conditional Sale Indebtedness
Due August 2, 1987

Dear Sir:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of The Chesapeake and Ohio Railway Company, for filing and recordation, counterparts of the following:

- (1) Reconstruction and Conditional Sale Agreement, dated as of December 1, 1978, among Mercantile-Safe *Vendora* Deposit and Trust Company, as Agent, The Chesapeake & Ohio Railway Company and The Connecticut Bank and Trust Company, as Trustee; *Under*
- (2) Transfer Agreement dated as of December 1, 1978, between Mercantile-Safe Deposit and Trust Company and The Connecticut Bank and Trust Company, as Trustee;
- (3) (a) Lease of Railroad Equipment dated as of December 1, 1978, between The Chesapeake and Ohio Railway Company and The Connecticut Bank and Trust Company, as Trustee;

Handwritten signature/initials on the left margin.

Handwritten notes and stamps at the bottom of the page.

(b) Assignment of Lease and Agreement dated December 1, 1978, between The Connecticut Bank and Trust Company, as Trustee, and Mercantile-Safe Deposit and Trust Company; and

(4) Hulk Purchase Agreement dated as of December 1, 1978, between the Chesapeake and Ohio Railway Company and The Connecticut Bank and Trust Company, as Trustee.

The addresses of parties to the aforementioned agreements are:

Owner-Trustee-Lessor-Vendee-Buyer

The Connecticut Bank and Trust Company, as Trustee
One Constitution Plaza
Hartford, Connecticut 06115

Builder

The Chesapeake & Ohio Railway Company
Two North Charles Street
Baltimore, Maryland 21201

Lessee-Railroad-Seller

The Chesapeake & Ohio Railway Company
Two North Charles Street
Baltimore, Maryland 21201

Agent-Vendor

Mercantile-Safe Deposit and Trust Company, as Agent
Two Hopkins Plaza,
P. O. Box 2258
Baltimore, Maryland 21203

Please file and record the documents referred to in this letter, and cross-index them under the names of the Owner-Trustee-Lessor-Vendee-Buyer, the Builder, the Lessor-Railroad-Seller and the Agent-Vendor.

The equipment covered by the Hulk Purchase Agreement and the Transfer Agreement is listed in Exhibit A attached hereto. The equipment covered by the Reconstruction and Conditional Sale Agreement and the Lease is listed in Exhibit B attached hereto.

Each unit of reconstructed railroad equipment bears the legend "Subject to a Security Agreement filed with the Interstate Commerce Commission".

Enclosed is our check for \$200 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,



John S. Herbert
As Agent for the Chesapeake
and Ohio Railway Company

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

Encls.

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BY HAND

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RECORDATION NO. Filed 1425

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INTERSTATE COMMERCE COMMISSION

[CS&M Ref: 2043-895]

LEASE OF RAILROAD EQUIPMENT

Dated as of December 1, 1978

Between

THE CHESAPEAKE AND OHIO RAILWAY COMPANY,

and

THE CONNECTICUT BANK AND TRUST COMPANY,
not in its individual capacity but solely
as Trustee,

LEASE OF RAILROAD EQUIPMENT

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LEASE OF RAILROAD EQUIPMENT dated as of December 1, 1978, between THE CHESAPEAKE AND OHIO RAILWAY COMPANY, a Virginia corporation (the "Lessee" or the "Builder"), and THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, not in its individual capacity but solely as trustee (the "Lessor") under a trust agreement dated as of the date hereof (the "Trust Agreement") with TENTH HFC LEASING CORPORATION and CONNELL RICE & SUGAR CO., INC. (Connell Leasing Company Division) (individually an "Owner" and collectively the "Owners").

WHEREAS the Builder, the Lessor and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, not in its individual capacity but solely as Agent (said bank as so acting, being hereinafter, together with its successors and assigns, called the "Vendor"), under a Participation Agreement dated as of the date hereof (the "Participation Agreement") with the Lessor, the Lessee, the Owners, HFC Leasing Inc. and the party or parties named in Schedule A thereto, are entering into a Reconstruction and Conditional Sale Agreement dated as of the date hereof (the "RCSA"); and

WHEREAS the Lessee desires to lease all the units of said equipment, or such lesser number as are delivered, accepted and settled for under the RCSA (such units being hereinafter called the "Units"), at the rentals and for the terms and upon the conditions hereinafter provided.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but subject to all the rights and remedies of the Vendor under the RCSA:

Section 1. Delivery and Acceptance of Units.
Subject to the rights of the Owners to inspect the Hulks (as defined in the Hulk Purchase Agreement) and the Units as provided in the RCSA, the Lessor hereby appoints the Lessee (and any employee thereof designated by the Lessee) as its agent and the agent for the Owners for inspection and acceptance of the Units pursuant to the RCSA. The Lessor will cause each Unit to be tendered to the Lessee at the

point or points within the United States of America at which such Unit is delivered to the Lessor under the RCSA. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance and delivery (hereinafter called the Certificate of Acceptance), whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

Section 2. Rental. The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease one interim and 16 consecutive semiannual payments in arrears. The interim payment is payable on February 2, 1980. The 16 semiannual payments are payable on February 2 and August 2 in each year, commencing August 2, 1980, to and including February 2, 1988. The interim payment payable on February 2, 1980, shall be in an amount equal to the product of the Purchase Price (as defined in the RCSA) for each Unit subject to this Lease, multiplied by .02778% for each calendar day elapsed from and including the Closing Date (as defined in the RCSA) with respect to such Unit and to, but not including, February 2, 1980. The 16 semiannual rental payments with respect to each Unit then subject to this Lease shall each be in an amount equal to 7.3607517% of the Purchase Price of each such Unit.

In addition to the foregoing rental, the Lessee agrees to pay to the Lessor as additional rental, an amount equal to the amounts that the Lessor is obligated to pay to the Agent pursuant to the first and fourth paragraphs of Paragraph 10 of the Participation Agreement on the date or dates payable pursuant thereto.

The Lessee and the Lessor agree that the rentals payable hereunder and the Casualty Value percentages set forth in Schedule B hereto will be adjusted in the event that (A) any amendment to, or change in, the Internal Revenue Code of 1954, as amended (the "Code"), the income tax regulations thereunder or published administrative or judicial interpretations of the Code or such regulations is enacted or has an effective date on or prior to February 2, 1980, (B) the aggregate Reconstruction Cost of the Units is more or less than 65.44% of the aggregate Purchase Price of the Units, (C) any Closing Date is held on a date other

than the date specified therefor in Schedule B of the RCSA, (D) the amount settled for on any Closing Date is different from the amount specified therefor in Schedule B of the RCSA, (E) any Unit or Units are delivered after June 29, 1979, or (F) interest is payable on the CSA Indebtedness on December 28, 1979, February 2, 1980, or on any Payment Date (as defined in the RCSA) at a rate other than 10.00% per annum, as provided in Paragraph 20 of the Participation Agreement. Any such adjustment shall be effective as of the first rental payment date following the event giving rise to such adjustment, and shall be made in such manner as will result, in the Owners' reasonable judgment, in preserving for the Owners both the after-tax rate of return and the after-tax cash flow that would have been realized by such Owners had such event not occurred, (i) based on the rates of Federal, state and local taxes on, or measured by, net income in effect from time to time, and (ii) in all other respects based on the assumptions and methods of calculation utilized by the Owners in originally evaluating the transaction described in this Lease and related documents. Notwithstanding the foregoing, the rentals payable and Casualty Value percentages will never be less than those amounts and percentages required (x) to enable the Lessor to satisfy its obligations under the RCSA, and (y) to enable the Owners to satisfy the profit and positive cash flow requirements set forth in Section 4(6) of Rev. Proc. 75-21, 1975-1 Cum. Bull. 715, as such requirements may be modified or adjusted as of the applicable rental payment date. The Owners shall furnish the Lessee and the Vendor prior to the effective date of any such adjustment with a notice setting forth in reasonable detail the computations and methods used in computing such adjustment.

If any of the rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Baltimore, Maryland, or New York, New York, are authorized or obligated to remain closed.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due

to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or under the RCSA, or the Builder or the Vendor or the Owners or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or failure of title of the Lessor to any of the Units or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, any prohibition of or other restriction against Lessee's use of all or any of the Units, the taking or requisitioning of any of the Units by condemnation or otherwise, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency, bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever. All payments under the Lease shall be made by bank wire transfer of Federal or other funds immediately available at, and not later than 10:00 a.m. Baltimore time in, the city where such payments are due.

Section 3. Term of Lease. The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of Sections 6, 9, 12 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due hereunder; provided, however, that all obligations of the Lessee, except for the payment of rent and the furnishing of annual reports, shall continue until surrender of the Units in accordance with Section 13 hereof.

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

Section 4. Identification Marks. The Lessee, so long as this Lease shall remain in effect, will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto and will keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of such Unit in letters not less than one inch in height, the following legend: "Ownership Subject to a Security Agreement Filed with the Interstate Commerce Commission" or other appropriate markings designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the Vendor under the RCSA. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such legend shall have been so marked on both sides thereof and will replace promptly any such legend which may be removed, obliterated, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the RCSA shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to that effect and to the further effect that such filing, recordation and deposit will protect the Vendor's and the Lessor's interests in such Units and that no filing, recording, depositing or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

Except as above provided, the Lessee, so long as this Lease shall remain in effect, will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its

affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

Section 5. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor (in both its individual and fiduciary capacities) for collection or other charges and will be free of expense to the Lessor in each such capacity with respect to the amount of any local, state, Federal or foreign taxes (other than any United States Federal income tax and, to the extent that the Lessor receives credit therefor against its United States Federal income tax liability, any foreign income tax payable by the Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all (i) state and city income taxes and franchise taxes measured by net income, (ii) state and city taxes computed on a basis other than net income and imposed as a direct alternative to any taxes described in clause (i) above, and (iii) any other state and city taxes, to the extent such taxes are actually credited against taxes which are described in clause (i) above and which are otherwise payable to such states and cities, except any taxes described in clause (i), (ii) or (iii) above, which are in substitution for or relieve the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments, documentary stamp taxes, or license fees and any charges, fines or penalties in connection therewith (hereinafter called "impositions") now or hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title or return or other disposition of the Units under the terms hereof or the RCSA, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder or of the Vendor or the Vendee under the RCSA. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor,

the Lessee shall reimburse the Lessor on presentation of an invoice therefor.

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

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

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

The Lessee shall, whenever reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of, the Lessee's performance of its duties under this Section 5. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit the Lessor's compliance with the requirements of taxing jurisdictions, including but not limited to information relating to the use of any Unit or Units outside the United States of America.

The parties hereto acknowledge that the Units become a part of the mass of property used by the Lessee in its operations as a common carrier by rail. Consequently, the parties agree that the Lessee shall include the Units in the ad valorem tax returns to be filed by the Lessee in the applicable states or localities and that neither the Vendor nor the Lessor shall include the Units in any ad

valorem tax returns filed by them in such states or localities.

The amount which the Lessee shall be required to pay with respect to any imposition which is subject to indemnification under this Section 5 shall be an amount sufficient to restore the Lessor to the same net after-tax rate of return and after-tax cash position, after considering the effect of such payment and such imposition on its United States Federal income taxes and state and local income taxes or franchise taxes based on net income, that the Lessor would have had or been in had such imposition not been imposed.

Section 6. Maintenance; Payment for Casualty Occurrences; Insurance. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed or, in the good faith and reasonable opinion of the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise by the United States Government for a period which shall exceed the then remaining term of this Lease or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days or until the end of the term of this Lease (each such occurrence being hereinafter called a "Casualty Occurrence") prior to the return of such Unit in the manner set forth in Section 13 hereof and the expiration of the storage period provided therein, the Lessee shall, within 30 days after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor and the Vendor in writing with respect thereto. Notwithstanding any such Casualty Occurrence, the Lessee shall continue making all payments provided for in this Lease in respect of such Unit until the rental payment date listed in Table 1 of Schedule B hereto next succeeding such notice. On such rental payment date the Lessee shall, in addition to other amounts due, pay to the Lessor the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with Schedule B hereto. Upon the making of all such payments by the Lessee in respect of any Unit, the rental for such Unit shall thereafter cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessee shall be entitled to recover possession of such Unit and, subject to the next succeeding sentence, the Lessee shall

pay all costs of removal of such Unit and of freight to the place designated pursuant to Section 13 hereof. The Lessor hereby appoints the Lessee its agent, to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable under the circumstances on an "as is, where is, and with all faults" basis in accordance with the Lessee's normal procedures; provided, however, that, except in the case of the loss, theft or complete destruction of such unit, the Lessee shall give notice of such Casualty Occurrence to the Lessor, and the Lessor may revoke such appointment upon written notice received by the Lessee within 15 days after the date of the notice given by the Lessee to the Lessor. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the net proceeds of such sale after deductions of any cost or expense incurred in disposing of such Unit to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be an amount equal to the sum of (a) that percentage of the Purchase Price of such Unit as is set forth in Table 1 of Schedule B hereto opposite such date with respect to such Unit plus (b) if applicable to such Unit, that percentage of the Purchase Price thereof as set forth in Table 2 of said Schedule B with respect to such Unit; provided, however, that the Casualty Value percentages set forth in Schedule B hereto apply only to Units delivered and accepted under the RCSA on or prior to June 29, 1979. With respect to any Unit delivered and accepted after June 29, 1979, the Lessor and the Lessee agree that the Casualty Value percentages set forth in Schedule B hereto will be appropriately adjusted in order that the Owners' after-tax rate of return and after-tax cash flow ((i) based on the rates of Federal, state and local taxes on, or measured by, net income in effect from time to time, and (ii) in all other respects based on the assumptions and methods of calculation utilized by the Owners in originally evaluating the transaction described in this Lease and related documents) will not be increased or decreased by reason thereof; provided, however, that the Casualty Value percentages, as so adjusted, shall be sufficient to satisfy the obligations of the Lessor under the RCSA, notwithstanding any limitation of liability contained therein.

Whenever any Unit shall suffer a Casualty Occur-

rence at the end of the term of this Lease or after termination of this Lease and before such Unit shall have been returned in the manner provided in Section 13 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit as of the rental payment date immediately preceding such termination. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent, to dispose of any Unit suffering such Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is, and with all faults" basis; provided, however, that, except in the case of the loss, theft or complete destruction of such Unit, the Lessee shall give notice of such Casualty Occurrence to the Lessor, and the Lessor may revoke such appointment upon written notice received by the Lessee within 15 days after the date of the notice given by the Lessee to the Lessor. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

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

The Lessee will, at all times prior to the return of the Units to the Lessor at its own expense, cause to be carried and maintained (i) property insurance in respect of the Units at the time subject hereto; provided, however, that the Lessee may self-insure such Units to the extent it self-insures equipment similar to the Units and to the extent such self-insurance is consistent with prudent industry practice, and (ii) public liability insurance with respect to third party personal and property damage and the Lessee will continue to carry such insurance in such amounts and for such risks and with such insurance companies as is consistent with prudent industry practice but in any event at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units, in each case

satisfactory to the Lessor and the Vendor. The proceeds of any property insurance shall be payable to the Vendor and the Lessee, as their interests may appear, so long as the indebtedness, if any, evidenced by the RCSA shall not have been paid in full, and thereafter to the Lessor and the Lessee as their interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Lessor, the Lessee and the Vendor and (ii) name, in the case of liability insurance, the Lessor and the Vendor as additional named insureds as their respective interests may appear and, in the event such policies shall contain breach of warranty provisions, such policies shall provide that in respect of the interests of the Lessor and the Vendor in such policies the insurance shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor and the Vendor) and shall insure the Lessor and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Lessor or the Vendor). Prior to the first date of delivery of any Unit pursuant to the RCSA, and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant to this Section 6, the Lessee shall deliver to the Lessor evidence satisfactory to the Lessor of the insurance required to be maintained pursuant to this Section 6.

In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor for the cost thereof together with interest, on the amount of the cost to the Lessor of such insurance which the Lessee shall have failed to maintain, at the rate of 11.00% per annum.

Section 7. Annual Reports. On or before November 30 in each year, commencing with the calendar year 1979, the Lessee will cause to be furnished to the Lessor and the Vendor (at the address shown in Section 17 hereof), an accurate statement, as of the preceding June 30, showing the amount, description and numbers of the Units (a) then leased hereunder and/or covered by the RCSA, (b) that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease in the case of the first such statement) and (c) then undergoing repairs (other than

running repairs) or then withdrawn from use pending such repairs and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, and stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by Section 4 hereof and by Article 8 of the RCSA shall have been preserved or replaced. The Lessor shall have the right at its sole cost, risk and expense, by its authorized representatives, to inspect the Units and the Lessee's records with respect thereto (including those relating to any use of the Units outside the United States) at such reasonable times as the Lessor may request during the continuance of this Lease.

Section 8. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE, OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation, or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that all Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including,

without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that, prior to the expiration of this Lease or any renewal thereof or the return of all the Units, as provided in Section 10 or 13 hereof, such laws or rules require any alteration, replacement, addition or modification of or to any part of any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the advance opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor, respectively, under this Lease or under the RCSA. The Lessee, at its own cost and expense, may furnish other additions, modifications and improvements to the Units during the term of this Lease provided that such additions, modifications and improvements are readily removable without causing material damage to the Units. The additions, modifications and improvements made by the Lessee under the first sentence of this paragraph shall be owned by the Lessor, and the additions, modifications and improvements made by the Lessee under the second sentence of this paragraph shall be owned by the Lessee.

The Lessee agrees to indemnify, protect and hold harmless the Lessor (individually and in its fiduciary capacity), the Owners and the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as a result of (i) the entering into or the performance of, or the occurrence of a default, an event of default or an Event of Default under, the RCSA, the Participation Agreement, the Hulk Purchase Agreement, or this Lease or any sublease, or any of the instruments or agreements referred to therein or herein or contemplated thereby or hereby, (ii) the ownership of any Hulk or any Unit, (iii) the ordering, acquisition, use, operation, maintenance, condition, reconstruction, purchase, delivery,

rejection, storage or return of any Hulk or any Unit, (iv) any accident in connection with the operation, use, condition, reconstruction, possession, storage or return of any Hulk or any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in Section 13 of this Lease, including, without limitation, any claim based upon the doctrines of product liability or strict or absolute liability in tort or by statute imposed, or (v) the transfer of title to the Equipment by the Vendor pursuant to any provision of the RCSA. The Lessor agrees to give the Lessee, promptly upon obtaining knowledge thereof, written notice of any claim or liability to be indemnified against hereunder. As used in this Section 8, "knowledge" of the Lessor shall mean actual knowledge of an officer or employee in the corporate trust department of the Lessor. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the delivery of the Equipment or the full payment and performance of all obligations under this Lease and the Hulk Purchase Agreement or the expiration or termination of the term of this Lease and/or the Hulk Purchase Agreement; provided, however, that the foregoing indemnification shall not apply to any failure of payment of any of the principal of or interest on the CSA Indebtedness. Nothing in this Section 8 shall constitute a guarantee by the Lessee of the principal of or interest on the CSA Indebtedness of the Lessor under the RCSA or a guarantee of the residual value of any Unit. The amount the Lessee shall be required to pay with respect to any of its obligations under this paragraph shall include a payment to the indemnified party sufficient to restore such party to the same position, after considering the effect of such payment on its United States Federal income taxes and state and local income taxes or franchise taxes based on net income, that the indemnified party would have been in had the liability or expense indemnified against not been incurred.

The indemnities made by the Lessee in this Section 8 shall not be modified, abated, postponed or in any other way or in any manner diminished or reduced as a consequence of any action or inaction of any Owner in connection with, relating to, or arising out of the rights (whether or not exercised) of any such party to inspect or approve the reconstruction to be performed by the Builder pursuant to the RCSA. Said indemnities shall in all events, and in addition to the agreements contained elsewhere in this Section 8, extend to and apply to any allegation against any indemnified party that it has been negligent, either actively or passively, or is guilty of a breach of other duty, including without limitation any

breach of warranty or breach of contract, to any person or organization.

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

Section 9. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

A. default shall be made in the payment of any amount provided for in Sections 2, 6 or 12 hereof and such default shall continue for ten days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest therein, or of the right to possession of the Units, or any thereof, and shall fail or refuse to cause such assignment or transfer to be canceled and to recover possession of such Units within 15 days after written notice from the Lessor or the Vendor to the Lessee demanding the same;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

D. a petition for reorganization under the Federal Bankruptcy Act or under Title 11 of the United States Code, as now constituted or as it may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been (and shall not continue to be) duly assumed in writing,

pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, or in accordance with the provisions of 11 U.S.C. § 1168, within 60 days after the filing of the petition or the commencement of the case;

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

F. any of the Lessee's representations or warranties made in the Participation Agreement, herein or in any statement or certificate at any time given in writing pursuant hereto or thereto or in connection herewith or therewith shall be breached or found to be false or misleading in any material respect;

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

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or

to recover damages for the breach thereof including amounts sufficient to restore the Owners to the same net after-tax rate of return and after-tax cash position, after considering the effect of the receipt of such damages and amounts on their United States Federal income tax and state and local taxes or franchise taxes based on net income, that the Owners would have realized or would have been in had such breach not occurred; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents or employees enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 6.00% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; or (y) an amount equal to the excess, if any, of the Casualty Value as of the

rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the net proceeds realizable upon the sale of such Unit at such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale (in addition to the amounts payable pursuant to Sections 5 and 8 hereof) as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

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

Should the Lessee fail to make any payment or to do any act as provided by this Lease, then the Lessor shall have the right (but not the obligation), without notice to the Lessee of its intention to do so and without releasing the Lessee from any obligation hereunder to make or to do the same, to make advances to preserve the Equipment or the Lessor's title thereto, and to pay, purchase, contest or compromise any insurance premium, encumbrance, charge, tax, lien or other sum which in the judgment of the Lessor appears to affect the Equipment, and in exercising any such rights, the Lessor may insure any liability and expend whatever amounts in its absolute discretion it may deem necessary therefor. All sums so incurred or expended by the Lessor shall be due and payable by the Lessee within ten (10) days of notice thereof, together with interest thereon from the date of expenditure at the rate of 11.00% per annum.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or

hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

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

Section 10. Return of Units upon Default. If this Lease shall terminate pursuant to Section 9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) place such Units upon such storage tracks of the Lessee or its affiliates as the Lessor reasonably may designate;

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

(c) transport the same to any place on the lines of railroad operated by it or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of

the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, insure, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same.

The Lessee hereby expressly waives any and all claims against the Vendor or the Lessor and their agents for damages of whatever nature in connection with any retaking of the Units in any reasonable manner.

All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which .0408931% of the Purchase Price of such Unit exceeds the actual earnings received by the Lessor on such Unit for each such day.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 10, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney-in-fact of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

Section 11. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. The rights of the Lessor hereunder (including, but not limited to, the rights under Sections 5, 6, 8 and 9 and the rights to receive the rentals and Casualty Value payments payable under this Lease) shall inure to the benefit of the Vendor as assignee under the Assignment of Lease and Agreement dated as of the date hereof between the Vendor and the Lessor (the "Lease Assignment") in the manner and to the extent therein provided.

So long as the Lessee shall not be in default under this Lease and no event of default exists under the RCSA, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them, or sublease the Units or any of them, except to the extent permitted by the provisions of the next succeeding paragraph hereof; and any such assignment, transfer or sublease without said consent shall be void. The Lessee, at its own expense, will promptly discharge or cause to be duly discharged any and all sums claimed by any party which if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor after the date hereof or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units), upon or with respect to any Unit or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor and the Vendor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the next succeeding paragraph hereof.

Subject to the terms of this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon the lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic and equipment, and to assign its rights to the Units or to sublease the Units to any of its affiliates, but only upon and subject to all the terms and conditions of this Lease, including the last paragraph of this Section 11, and the RCSA. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units. Any sublease permitted by this paragraph may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Units included in such sublease and the use thereof; provided, however, that every such sublease shall be subject to the rights and remedies of the Vendor under the RCSA and the Lessor under this Lease in respect of

the Units covered by such sublease upon the occurrence of an event of default or Event of Default thereunder or hereunder.

Nothing in this Section 11 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the railroad properties of the Lessee as an entirety or substantially as an entirety; provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

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

Section 12. Renewal Option; Purchase Option; Right of First Refusal. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than 180 days prior to the end of the original term or the first extended term of this Lease, elect to extend such original or extended term of this Lease, as the case may be, in respect of all but not less than all the Units then covered by this Lease for an additional two-year period commencing on the scheduled expiration of such original term or the extended term, as the case may be, of this Lease.

Each such extended term of the Lease shall be on the same terms and conditions as are contained in the Lease, except (x) as to the amount of rentals, which shall be at a "Fair Market Rental" payable, in arrears, in semiannual payments on the months and day such rentals were payable for the Units in each year of the original term and (y) that the Casualty Value of each Unit on the first day of such extended term shall be equal to the lesser of 30% of the Purchase Price (as defined in the RCSA) of such Unit or the "Fair Market Value" of such Unit on such date and thereafter such Casualty Value shall be reduced on a straight line basis over the estimated remaining useful life of such Unit, all as determined by the procedures hereinafter established.

Provided that the Lessee is not in default and the Lease term is extended for two extended terms, the Lessee shall have the right to purchase all but not less than all of the Units then leased hereunder at the expiration of the second extended term pursuant to this Section 12 at a price equal to the Fair Market Value of such Units (as hereinafter defined). The Lessee shall give the Lessor written notice 180 days prior to the end of the second extended term of this Lease of its election to exercise the purchase option provided for in this Section 12. Payment of the purchase price shall be made at the office of the Lessor specified in Section 17 hereof in immediately available funds against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Units and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Units or any other matters.

Notwithstanding any election of the Lessee to purchase as provided in this Section 12, the provisions of Section 6 hereof shall continue in full force and effect until the date of purchase and the passage of ownership of the Units purchased by the Lessee upon such date unless the purchase price has been agreed upon by the parties pursuant to this Section 12, in which event the amount payable under Section 6 hereof shall be the greater of the amount otherwise payable under said Section 6 or such purchase price.

Fair Market Rental, Fair Market Value and estimated remaining useful life shall be agreed upon by the Lessor and the Lessee or determined as provided in the next paragraph, on the basis of (and shall be equal in amount to) the rental or sale value which would obtain in an arm's length transaction between an informed and willing lessee or vendee, as the case may be (other than a lessee currently in possession), and an informed and willing lessor or vendor, as the case may be, under no compulsion to lease or sell, as the case may be, and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental or sale value but there shall be excluded any rental value or sale value attributable to additions, modifications and improvements which the Lessee is entitled

to remove pursuant to Section 8 hereof; provided, however, that Fair Market Rental shall be determined as provided in this sentence on the basis of the term and other terms and conditions of the lease being considered; and provided, further, that, in the determination of Fair Market Value, the existence of the Lessee's purchase options pursuant to this Section 12 shall be disregarded. Fair Market Rental, Fair Market Value and estimated remaining useful life of the Units shall be determined upon the assumption that the Units shall have been maintained in accordance with the provisions of Section 6 hereof.

If after 45 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, as provided in the first paragraph of this Section 12, or to exercise its purchase option, as provided in the third paragraph of this Section 12, as the case may be, the Lessor and the Lessee are unable to agree upon a determination of Fair Market Rental, Fair Market Value or estimated remaining useful life, as the case may be, such Fair Market Rental or Fair Market Value or such remaining useful life, as the case may be, shall be determined in accordance with the following procedure: If either party to such determination shall have given written notice to the other requesting determination of Fair Market Rental, Fair Market Value or estimated remaining useful life by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers so appointed shall within 35 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine Fair Market Rental, Fair Market Value or estimated remaining useful life, as the case may be, of the Units subject to the proposed extended lease term or sale within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of a single appraiser appointed shall be final. If three appraisers shall be

appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall be final and binding upon the parties hereto. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental, Fair Market Value and estimated remaining useful life, unless these are agreed upon by the Lessor and the Lessee as provided for herein, and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, in the event the Lessor elects to sell any Units to third parties at the expiration of the original, or if extended, any extended term of this Lease, the Lessee shall be given written notice of such intention prior to the expiration of such term. In the event that the Lessor shall receive, prior to removal of the Units at the end of such extended term of the Lease, a bona fide offer in writing from another party unrelated to the Lessee to purchase the Units and the Lessor elects to sell the Units pursuant to such offer at the expiration of such term of this Lease, the Lessor shall give written notice to the Lessee of such offer. Such notice shall include the price and the terms and conditions of payment offered by the other party in writing to the Lessor. The Lessee shall have the sole right and option to purchase the Units at the higher of (x) the Fair Market Value, in cash, of such Units, or (y) the price, in cash, at which the Units are proposed to be sold or under the other terms and conditions of payment offered by the other party, as hereinafter provided. Within 10 business days of receipt of notice from the Lessor, the Lessee shall exercise such purchase right by delivery to the Lessor of a written notice specifying a date of purchase, which date shall not be later than the later of (i) 15 days after the date of delivery of such notice by the Lessee to the Lessor, or (ii) 90 days after the expiration of such term of this Lease. In the event that the Lessee shall have delivered a notice of its election to purchase the Units, this Lease (including the obligation to pay rent) shall be further extended upon the

same terms and conditions set forth herein from the date such notice is delivered to the Lessor until the date of such purchase.

Section 13. Return of Units upon Expiration of Term. Upon the expiration of the original or any extended term of this Lease, the Lessee will, at its own cost and expense, deliver the Units to the Lessor; provided, however, that if so instructed in writing by the Lessor at least 30 days prior to such expiration, the Lessee will, on or prior to the last business day of each consecutive calendar month following such expiration, deliver to the Lessor not less than 400 nor more than 600 Units (or such other number as may be agreed to by the Lessor) under this Lease and any other Lease of Railroad Equipment executed and delivered prior to December 31, 1979, between the Lessee and a trustee for the benefit of HFC Leasing Inc., or any subsidiary thereof; provided further, however, that the Lessee shall incur no liability to the Lessor or to any person claiming by, through or under the Lessor, if the Lessee is unable to deliver the minimum number of Units specified hereinabove for delivery in each consecutive calendar month as a result of circumstances constituting force majeure. Any Units delivered to the Lessor pursuant to the preceding sentence shall be delivered upon such storage tracks of the Lessee as the Lessee may designate, and the Lessee shall permit the Lessor to store such Units on such tracks for a period not exceeding 150 days after delivery to such storage tracks, and shall transport the same, on a one-time basis per Unit at any time within such 150-day period, to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Unit to be at the expense and risk of the Lessee until such time as such Unit shall have been delivered to such connecting carrier. Subsequent to the expiration of the term of this Lease and prior to delivery of any Unit to the Lessor, all terms and conditions of this Lease (other than term and the amount of rental and period of payment therefor) shall continue to apply to such Unit. If the Lessor gives to the Lessee the instruction referred to in the first proviso to the first sentence of this paragraph, then on the tenth day after delivery of the last Unit to be delivered to the Lessor as hereinabove provided or on the two hundred seventieth day following expiration of the original or any extended term of this Lease, whichever shall first occur (the "Date of Payment"), the Lessee shall pay as rent to the Lessor for each Unit not so delivered to the Lessor upon such expiration a sum equal to one-sixth of 50% of the rental rate per Unit prevailing

during the term or extended term of the Lease so expired, as the case may be, for each month (or part thereof) subsequent to such expiration and prior to such delivery. If any Unit is not returned by the Date of Payment, then the Lessee shall continue to pay the monthly rent provided for in the preceding sentence with respect to such Unit, except that such rent shall be payable on the last business day of each month, to and including the month in which the Unit is returned. During any storage period provided for in this paragraph, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this Section 13 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) be capable of being moved unloaded by the Lessee to any purchaser or subsequent lessee, and (iii) have removed therefrom by the Lessee without cost or expense to the Lessor all additions, modifications and improvements which the Lessee owns pursuant to Section 8 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and, upon application to any court having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units.

If the Lessor does not deliver the instructions referred to in the first sentence of the first paragraph of this Section 13, then in the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 90 days after the end of the term or any extended term of this Lease ~~(whether or not by reason of the fact that the Lessor has exercised the election specified in the proviso to the first sentence of the first paragraph of this Section 13),~~ then the Lessee shall promptly pay to the Lessor an amount for each day after such 90-day period, equal to the greater of (i) all per diem amounts earned by such Unit (including to the extent any Unit is used by the Lessee during this period, the per diem charge for each such day of use in revenue service) or (ii) .0408931% of the Purchase Price of such Unit. If, within the 150-day storage period the Lessor has not given the Lessee notice to transport any Unit to a connecting carrier for shipment, the Lessor will pay to the Lessee for storage a reasonable storage rate for such Unit beginning the first day after the 150-day storage period..

Section 14. Recording; Expenses. The Lessee, at its own expense, will cause this Lease, the Lease Assignment, the Transfer Agreement, the RCSA (all as defined in the Participation Agreement) and any assignment hereof or thereof to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. The Lessee will undertake the filing, recording and depositing and refiling, rerecording and redepositing required of the Lessor under the RCSA and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments or supplements required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease or the assignment hereof to the Vendor, or the RCSA; and the Lessee will promptly furnish or cause to be furnished to the Vendor and the Lessor evidences of all such filing, registering, recording or depositing, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease, the Lease Assignment, the Transfer Agreement and the RCSA shall be filed with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

Section 15. Tax Indemnities. (a) Loss of Assumed Tax Benefits. If:

(i) the Owners are not allowed for their calendar 1979 taxable year an investment credit under Section 38 and related sections of the Code with respect to any one or more of the Units of not less than 10% of the Reconstruction Cost with respect to such Unit or Units; or

(ii) the Owners are not allowed the benefit of current deductions for depreciation, commencing with their calendar 1979 taxable year, on any one or more of the Units under Section 167(a) of the Code (x) computed pursuant to the asset depreciation range system of Section 167(m) of the Code and Section 1.167(a)-11 of the income tax regulations, (y) computed on the basis (A) of a net salvage value of zero, (B) that the basis of such Unit or Units under Section 167(g) of the Code is not less than the Purchase Price with respect to such Unit or Units, and (C) that such Unit or Units have an asset depreciation period of 12 years, and (z)

computed (A) pursuant to the double declining balance method of depreciation, switching to the sum of the years-digits method of depreciation, with respect to the Reconstruction Cost, and (B) pursuant to the 150% declining balance method of depreciation, switching to the straight line method of depreciation, with respect to the Hulk Purchase Price; or

(iii) the Owners are not allowed the benefit of current deductions under Section 163 of the Code for interest payable under the RCSA; or

(iv) any investment credits or deductions for depreciation with respect to any one or more of the Units are recaptured in whole or in part pursuant to Section 47 or Section 1245 of the Code or any successor provision or provisions thereto; or

(v) any amount includible in the gross income of the Owners with respect to any one or more of the Units or any deduction allowable to the Owners with respect to such Unit or Units or with respect to any interest payable under the RCSA shall be treated as derived from, or allocable to, sources outside the United States; or

(vi) any amount is included, at any time prior to the end of the term of this Lease (including any renewal terms), in the gross income of the Owners as a result of any repair, improvement, alteration, modification or addition (including replacement of parts) to such Unit or Units made by the Lessee (herein called a "Capital Expenditure");

(any such failure to allow, such recapture, such treatment of income or deductions as derived from or allocable to sources without the United States, or such inclusion in gross income as a result of a Capital Expenditure being herein called a "Loss"), then, subject to paragraph (b) of this Section, the Lessee shall pay to the Owners as an indemnity the amount or amounts set forth in paragraph (d) of this Section at the time or times set forth therein.

(b) Indemnification and Exceptions. Except as hereinafter provided, the Lessee shall be required to indemnify the Owners with respect to any Loss that results from:

(i) a Loss described in clause (i) or (ii) of paragraph (a) of this Section, if such Loss results

from the use of a Unit by any person following its reconstruction until after it has been delivered to the Lessor pursuant to the RCSA and leased to the Lessee pursuant to this Lease;

(ii) the failure of an amount not less than the Reconstruction Cost of any Unit or Units to qualify for the investment credit and double declining balance depreciation in the hands of the Owners;

(iii) the Lessee's use of a Unit or Units in such a manner as to result in a Loss described in clause (iv) or (v) of paragraph (a) of this Section;

(iv) a Capital Expenditure; or

(v) any act, or failure to act, at any time, by the Lessee or any of its officers, employees or agents (including, without limitation, any act, or failure to act, in respect of the income tax returns of the Lessee insofar as they relate to the transaction contemplated by this Lease and related documents, it being understood that the Lessee will not take or fail to take any action that is inconsistent with the Owners being treated as the owners, and the Lessee being treated as the lessee, of the Units for Federal, state and local income tax purposes).

However, the Lessee shall not be required to indemnify an Owner with respect to any Loss that results solely and directly from:

(i) a Casualty Occurrence, if the Lessee has made all payments with respect thereto that are required to be made pursuant to Section 6 hereof;

(ii) a voluntary disposition by such Owner of its beneficial interest in any Unit or Units, if such disposition (x) shall be the direct cause of such Loss with respect to such Unit or Units, (y) shall occur at a time while no Event of Default (and no event that, with the lapse of time or the giving of notice, or both, would constitute an Event of Default) has occurred and is continuing, and (z) shall not be pursuant to the written consent of the Lessee;

(iii) the failure of such Owner to claim in a timely and proper manner on its income tax returns for the appropriate years any credits or deductions contem-

plated by paragraph (a) of this Section, unless such Owner shall have been advised by Messrs. Donovan Leisure Newton & Irvine, or other independent tax counsel selected by such Owner and approved by the Lessee (which approval shall not be unreasonably withheld), that there is no reasonable basis for claiming any such deduction or credit;

(iv) the failure of such Owner to have sufficient Federal income tax liability against which to apply such credits or sufficient income to benefit from such depreciation or interest deductions;

(v) the failure of such Owner to take timely action in contesting a claim made by the Internal Revenue Service, but only if such action is required by the terms of paragraph (c) of this Section;

(vi) any amendment to, or change in, the Code, the income tax regulations thereunder or published administrative or judicial interpretations of the Code or such regulations, which change or amendment is not enacted and does not have an effective date on or prior to February 2, 1980; or

(vii) any act, or failure to act, at any time, by such Owner or any of its officers, employees or agents, which is inconsistent with such Owner's obligations under the Trust Agreement and the Participation Agreement, except at a time when an Event of Default (or an event that, with the lapse of time or the giving of notice, or both, would constitute an Event of Default) has occurred and is continuing.

(c) Proceedings. If at the conclusion of any audit an Owner receives a preliminary or "30 day" letter from the Internal Revenue Service proposing an adjustment in any item that, if agreed to by such Owner, would result in a Loss with respect to which the Lessee would be required to indemnify such Owner pursuant to this Section, such Owner shall promptly notify the Lessee of such proposed adjustment and shall furnish to the Lessee a statement describing such Loss in reasonable detail. If requested to do so by the Lessee, within 20 days after receipt of such statement, such Owner shall promptly request from Messrs. Donovan Leisure Newton & Irvine, or such other independent tax counsel as may be selected by such Owner and approved by the Lessee (which approval shall not be unreasonably withheld) (the "Special Tax counsel"), their opinion as to whether there is

a meritorious basis for contesting such proposed adjustment. If the opinion is to the effect that there is a meritorious basis for contesting such proposed adjustment, such Owner shall contest such proposed adjustment beyond the level of the Internal Revenue Service auditing agent by such administrative proceedings, if any, as may be determined by such Owner in its sole discretion. Upon the conclusion of such administrative proceedings, if any, such Owner shall promptly notify the Lessee of the final adjustment proposed by the Internal Revenue Service and, if such Owner receives within 30 days after such notice a written request to do so from the Lessee, such Owner shall contest such final adjustment in a court of competent jurisdiction. If the Lessee requests such Owner to appeal the decision of such a court or of any intermediate appellate court, such Owner shall promptly request from Special Tax Counsel their opinion as to whether there is a meritorious basis for appealing such decision. If the opinion is to the effect that there is a meritorious basis for appealing such decision, such Owner shall appeal such decision. Such Owner, in its sole discretion, shall determine the initial and any appellate court and shall determine whether the proceedings shall be for redetermination of the deficiency proposed to be assessed by the Internal Revenue Service or for refund of taxes paid based on such deficiency. Such Owner shall not be required to take any action as set forth in this paragraph (c) unless and until the Lessee shall have agreed to indemnify such Owner in a manner satisfactory to it for any Loss that results from an adverse determination with respect to the proposed adjustment and shall have agreed to pay to such Owner on demand all reasonable out-of-pocket costs and expenses, including without limitation attorneys' fees and expenses incurred by it in connection with the taking of such action. If such Owner elects to pay taxes based on a proposed deficiency and sue for a refund thereof, and if the proposed deficiency would be a Loss with respect to which the Lessee would be required to indemnify such Owner, then the Lessee shall pay to such Owner on demand the amount of such taxes and interest thereon which such Owner shall have paid, and if such Owner subsequently receives a refund of all or any part of such taxes and interest, it shall promptly pay to the Lessee the amount of such refunded taxes and interest plus the amount of any interest received by such Owner from the United States Government with respect to such refunded taxes and interest. Notwithstanding anything to the contrary contained in this paragraph (c), such Owner may at any time, whether before or after commencing to take any action with respect to a proposed adjustment, decline to take any further action with respect thereto, provided that, if the Lessee has

properly requested such action pursuant to this paragraph (c), such Owner notifies the Lessee that it waives its right to any indemnity with respect to any Loss that will result from acceptance of such proposed adjustment.

(d) Amount and Time of Payment of Indemnity. The amount of indemnity payable by the Lessee pursuant to this Section with respect to a Loss shall be such amount as will result, in the indemnified Owner's reasonable judgment, in preserving for such Owner both the after-tax rate of return and the after-tax cash flow that would have been realized by such Owner if such Loss had not occurred, (i) based on the rates of Federal, state and local taxes on, based on, or measured by, net income in effect from time to time, and (ii) in all other respects based on the assumptions and methods of calculation utilized by the Owners in originally evaluating the transaction described in this Lease and related documents. The amount of such payment of indemnity shall reflect (A) the amount of interest, additions to tax and penalties payable by such Owner with respect to such Loss, (B) the amount of Federal, state and local taxes on, or measured by, net income (at the rates in effect from time to time), interest, additions to tax and penalties incurred by such Owner as a result of the receipt of such indemnity payment, and (C) any amount paid by the Lessee to such Owner pursuant to the next-to-last sentence of paragraph (c) of this Section which is not repaid by such Owner to the Lessee pursuant to such sentence. Such Owner shall furnish the Lessee with a notice setting forth in reasonable detail the computations and methods used in computing such amount of indemnity.

In determining the amount of indemnity payable by the Lessee pursuant to this Section with respect to a Loss which results from a Capital Expenditure, there shall be taken into account any investment credits and depreciation deductions to which the indemnified Owner is or expects to be entitled with respect to such Capital Expenditure in the year in which the Capital Expenditure is made and in subsequent years, but if any such investment credits or depreciation deductions are subsequently disallowed, recaptured or treated as derived from or allocable to sources outside the United States, such disallowance, recapture or allocation shall be treated as a Loss described in clause (i), (ii), (iv) or (v) of paragraph (a) of this Section, as the case may be.

The Lessee's obligation to pay any indemnity payable pursuant to this Section with respect to a Loss shall

become unconditional (1) in the case of a Loss that is required to be reflected on a tax return of an Owner, 30 days after the date such tax return is filed; (2) in the case of a Loss that results from a proposed adjustment of the Internal Revenue Service that is not contested pursuant to paragraph (c) of this Section, 30 days after the Lessee's receipt of the statement referred to in the first sentence of paragraph (c) of this Section; and (3) in the case of a Loss that results from a proposed adjustment of the Internal Revenue Service that is contested pursuant to paragraph (c) of this Section, 30 days after the day on which such contest is finally concluded.

The Lessee shall pay to an Owner entitled to indemnification hereunder a lump sum indemnity at the time its obligation to pay indemnity pursuant to this Section becomes unconditional, (A) with respect to a Loss described in clause (i) of paragraph (a) of this Section, and (B) with respect to any other Loss, if the Lessee's obligation to pay indemnity pursuant to this Section becomes unconditional on or after the termination of this Lease. Any other indemnity payable pursuant to this Section shall be structured as level future rent increases, and the Lessee shall commence payment of such increased rent on the first rental payment date after the Lessee's obligation to pay indemnity pursuant to this Section becomes unconditional. The amount of increased rental resulting from any one Loss shall be adjusted from time to time for each change in the rates of Federal, state and local taxes on, based on, or measured by, net income which affects the indemnified Owner's net after-tax rate of return and after-tax cash flow.

(e) Adjustment of Casualty Values. In the event that the Lessee shall be required to indemnify an Owner pursuant to this Section with respect to a Loss relating to a Unit or Units, the Casualty Value of such Unit or Units shall be appropriately reduced to reflect the reduction, if any, in taxes that will be payable by such Owner with respect to such Unit or Units upon a Casualty Occurrence with respect thereto; provided, however, that such Casualty Values shall not be reduced below the amounts required to satisfy the obligations of the Lessor under the RCSA.

(f) Definition of Owner. For purposes of this Section, the term "Owner" shall include any affiliated group, within the meaning of Section 1504 of the Code, of which an Owner is a member, if consolidated returns are filed for such affiliated group for Federal income tax purposes.

(g) Payments of Indemnity. All payments of indemnity made pursuant to this Section, whether payable in a lump sum or in the form of increases in future rental payments, shall be made by the Lessee directly to the indemnified Owner by transfer of immediately available funds to the account of such Owner specified in Section 2.01(c) of the Trust Agreement or to such other account or in such other manner as such Owner from time to time shall have identified in written instructions given to the Lessee.

Section 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations when due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 11.00% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

Section 17. Notices. Any instruction or notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States mails, first-class postage prepaid, addressed as follows:

if to the Lessor, at

One Constitution Plaza
Hartford, Connecticut 06115

Attention of Corporate Trust Department,

if to the Lessee, at

2 North Charles Street
Baltimore, Maryland 21201

Attention of Senior Assistant Treasurer,

if to the Vendor, at

P. O. Box 2258
Baltimore, Maryland 21203

Attention of Corporate Trust Department,

if to the Owners, at their respective addresses specified in the Trust Agreement,

or addressed to any such party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Lessor and the Vendor.

Section 18. Effect and Modification of Lease. Except for the Participation Agreement, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

Section 19. Definitions. If and so long as this Lease is assigned to the Vendor (or any successor thereto) for collateral purposes, wherever the term "Lessor" is used in this Lease it shall include the Vendor and any successors thereto unless the context shall otherwise require and except that the Vendor shall not be subject to any liabilities or obligations under this Lease; and the fact that the Vendor is specifically named in certain provisions shall not be construed to mean that the Vendor (and any successors thereto) is not entitled to the benefits of other provisions where only the Lessor is named. Whenever the term "Lessor" is used in this Lease, it shall also include the Owners and any assignee of an Owner.

Section 20. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although this Lease is dated as of the date first set forth above for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed. The schedules and the footnotes thereto annexed to this Lease are an integral part of this Lease and are incorporated herein by reference.

Section 21. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Ohio; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

Section 22. Immunities; No Recourse; Severability. It is expressly agreed, anything herein to the contrary

notwithstanding, that each and all of the representations, warranties, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, warranties, undertakings and agreements by The Connecticut Bank and Trust Company, or for the purpose or with the intention of binding said bank personally, but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement; and this Lease is executed and delivered by said bank, not in its own right but solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and except in the case of wilful misconduct or gross negligence by said bank, no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank or the Owners hereunder (except, with respect to each such party, in connection with the payment or discharge of claims, liens, charges or security interests claimed from, through or under such party or its successors and assigns pursuant to the proviso to the last paragraph of Article 11 of the RCSA and except, with respect to the Owners, pursuant to Section 1.03 and the last paragraph of Section 5.01 of the Trust Agreement and, in the case of Connell Rice & Sugar Co., Inc. (Connell Leasing Company Division), Paragraph 19 of the Participation Agreement), on account of this Lease or the Trust Agreement or on account of any representation, warranty, undertaking or agreement of said bank or the Owners hereunder, either expressed or implied, all such personal liability (except as aforesaid), if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee.

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

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this

instrument to be executed in their respective corporate names by duly authorized officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

THE CONNECTICUT BANK AND TRUST COMPANY, not in its individual capacity but solely as Trustee,

by *[Signature]*
Authorized Officer

[Corporate Seal]

Attest:

[Signature]
Authorized Officer

THE CHESAPEAKE AND OHIO RAILWAY COMPANY,

by *[Signature]*
Senior Assistant Treasurer

[Corporate Seal]

Attest:

[Signature]
Assistant Secretary

APPROVED
[Signature]
1/15/79



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

On this 15th day of January 1979, before me personally appeared *F.W. KAWAY*, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of THE CONNECTICUT BANK AND TRUST COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Leone Pakter

Notary Public

My Commission expires

LEONE PAKTER
NOTARY PUBLIC, State of New York
No. 31-4641679
Qualified in New York County
Commission Expires March 30, 1979

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

On this 15th day of January 1979, before me personally appeared *James E. Egan* to me personally known, who, being by me duly sworn, says that he is Senior Assistant Treasurer of THE CHESAPEAKE AND OHIO RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that such instrument was this day signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Leone Pakter

Notary Public

My Commission expires

LEONE PAKTER
NOTARY PUBLIC, State of New York
No. 31-4641679
Qualified in New York County
Commission Expires March 30, 1979

Lease of Railroad Equipment

SCHEDULE A

Specifications of the Equipment*

<u>Quantity</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>Railroad Road Numbers**</u>
100	XM	50' 70 ton Box Cars	A
235	XM	50' 50 ton Box Cars	B
88	XM	50' 70 ton Box Cars	C
12	XL	50' 50 ton Box Cars	D
58	XL	50' 50 ton Box Cars	E <i>same as to RCSA</i>
40	XL	50' 50 ton Box Cars	F <i>11</i>

* It is agreed that, notwithstanding anything to the contrary contained in this Schedule A or in the Lease of Railroad Equipment to which this Schedule A is annexed ("this Lease"), this Lease will only cover those Units that are reconstructed from Hulks that are delivered pursuant to the Hulk Purchase Agreement by the Lessee and accepted by the Lessor on or before June 15, 1979, under the RCSA and that have a Maximum Purchase Price not in excess of \$24,150,000. After delivery of all of the Units covered by this Lease, this Schedule A will be appropriately amended (and an appropriate supplement filed with the Interstate Commerce Commission) to describe only those Units covered by this Lease, and will designate the particular road numbers thereof.

** Each letter in the column below will be deemed to refer to the Railroad Road Numbers appearing opposite such letter as it appears elsewhere in Schedule A to the RCSA.

<u>Quantity</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>Railroad Road Numbers</u>
196	XL	50' 50 ton Box Cars	F <i>some II 2 as RC SA</i>
40	XL	50' 50 ton Box Cars	G <i>II</i>
36	XL	50' 50 ton Box Cars	H <i>II</i>
24	GB	52'6" 70 ton Gondola Cars	I
37	GB	52'6" 70 ton Gondola Cars	I
65	GB	50'6" 70 ton Gondola Cars	J
73	GB	52'6" 70 ton Gondola Cars	K
20	FM	53'6" 70 ton Flat Cars	L
47	FM	53'6" 70 ton Flat Cars	M
20	FM	51'3" 50 ton Flat Cars	N
96	HT	70 ton Open Top Hoppers	O <i>some # 2 as RC SA</i>
86	HT	70 ton Open Top Hoppers	O <i>II</i>

<u>Quantity</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>Railroad Road Numbers</u>
114	HT	70 ton Open Top Hoppers	P <i>some #s to R C S A</i>
140	HT	70 ton Open Top Hoppers	P <i> </i>
125	HT	70 ton Open Top Hoppers	Q <i>"</i>
96	HT	70 ton Open Top Hoppers	Q <i>"</i>
21	HT	70 ton Open Top Hoppers	Q <i>"</i>
18	HT	70 ton Open Top Hoppers	Q <i>"</i>
25	HT	80 ton Open Top Hoppers	R <i>"</i>
36	HT	80 ton Open Top Hoppers	R <i>"</i>
22	HT	80 ton Open Top Hoppers	S <i>"</i>
13	HT	80 ton Open Top Hoppers	S <i>"</i>
73	HT	85 ton Open Top Hoppers	T <i>"</i>

<u>Quantity</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>Railroad Road Numbers</u>
30	HT	85 ton Open Top Hoppers	T <i>some #2 a RCSA</i>
825	HT	70 ton Open Top Hoppers	U "
601	HT	70 ton Open Top Hoppers	U "
54	HT	80 ton Open Top Hoppers	V "
63	HT	80 ton Open Top Hoppers	V "
39	HT	80 ton Open Top Hoppers	W "
47	HT	80 ton Open Top Hoppers	W "
48	HT	70 ton Open Top Hoppers	X "
46	HT	70 ton Open Top Hoppers	X "
24	HT	70 ton Open Top Hoppers	X "
40	HT	70 ton Open Top Hoppers	X "

<u>Quantity</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>Railroad Road Numbers</u>
38	HT	70 ton Open Top Hoppers	X <i>same # as RCSA</i>
69	HT	70 ton Open Top Hoppers	X "
35	HT	70 ton Open Top Hoppers	X "
25	HT	70 ton Open Top Hoppers	X "
15	HT	70 ton Open Top Hoppers	Y "
25	HT	70 ton Open Top Hoppers	Y "
85	HT	70 ton Open Top Hoppers	Z "
56	HT	70 ton Open Top Hoppers	Z "

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Lease of Railroad Equipment

SCHEDULE B

Casualty Value Percentages Schedule

Table 1

<u>Rental Payment Date</u>	<u>Percentage</u>
2/2/80	94.394272
8/2/80	95.996679
2/2/81	92.109833
8/2/81	88.800417
2/2/82	84.536579
8/2/82	80.910243
2/2/83	76.384451
8/2/83	72.274228
2/2/84	67.270741
8/2/84	62.684987
2/2/85	57.336728
8/2/85	52.101089
2/2/86	46.183175
8/2/86	40.299605
2/2/87	33.937321
8/2/87	27.220052
2/2/88 (and for any applicable period, includ- ing any storage period, thereafter)	20.00000

Table 2

The percentages set forth in Table 1 of this Schedule B have been computed without regard to recapture of the investment tax credit (as referred to in Section 15 relating to certain tax indemnities). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence on or before the third, fifth or seventh Anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth below:

<u>Anniversary of Delivery and Acceptance</u>	<u>Percentage of Purchase Price</u>
Third	12.584615
Fifth	8.389786
Seventh	4.194829