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JUL 29 1987 -4 05 PM

INTERSTATE COMMERCE COMMISSION

No.

Date JUL 29 1987

Fee \$ 10.00

July 28, 1987

ICC Washington, D.C.

OFFICE OF THE SECRETARY
MOTOR OPERATING UNIT
JUL 29 4 00 PM '87

Ms. Noreta McGee
Secretary
Interstate Commerce Commission
Twelfth Street & Constitution Avenue
Washington, D.C. 20423

Re: Southern Pacific Transportation Co.

Dear Secretary:

Please find enclosed an original and three copies of each of the primary and secondary documents described below, to be stamped and recorded pursuant to Section 11303 of Title 49 of the U.S. Code. The primary document is a Conditional Sale Agreement dated as of June 1, 1987. The secondary document is an Agreement and Assignment dated as of June 1, 1987.

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

Builders/Vendors: (a) General Electric Company, a New York corporation, with headquarter offices at 3135 Easton Turnpike, Fairfield, Connecticut 06431, acting through its Transportation Systems Business Operations, having offices at 2901 East Lake Road, Erie, Pennsylvania 16531.

(b) General Motors Corporation, a Delaware corporation, with offices at 3044 West Grand Boulevard, Detroit, Michigan 48202, acting through its Electro-Motive Division, having offices at LaGrange, Illinois 60525.

Debtor: Southern Pacific Transportation Company
One Market Plaza
San Francisco, California 94105

County Court - Anne O'Connell

A designation of the equipment covered by the document follows:

40 new General Electric 3900 horsepower, 4-axle road freight locomotives and 20 new General Motors 3800 horsepower 4-axle road freight locomotives; any and all replacements of and accessions to such locomotives and any and all replacements of parts thereof, whether as a result of any repair or maintenance thereof or any improvement thereon or for any other reason whatsoever; and any proceeds of the foregoing. The road numbers and serial numbers on such locomotives are set forth in Schedule B to the Conditional Sale Agreement.

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

Builders: (a) General Electric Company, a New York corporation, with headquarter offices at 3135 Easton Turnpike, Fairfield, Connecticut 06431, acting through its Transportation Systems Business Operations, having offices at 2901 East Lake Road, Erie, Pennsylvania 16531.

(b) General Motors Corporation, a Delaware corporation, with offices at 3044 West Grand Boulevard, Detroit, Michigan 48202, acting through its Electro-Motive Division, having offices at LaGrange, Illinois 60525.

Assignee: First Pennsylvania Bank N.A.
30 South 30th Street
Philadelphia, Pennsylvania 19104
Attn: Corporate Trust Administration

as agent for

First Penn-Pacific Life Insurance Company
National Reinsurance Corporation
Security-Connecticut Life Insurance Company
American States Life Insurance Company
The Prudential Insurance Company of America
The Lincoln National Life Insurance Company
Lincoln National Pension Insurance Company

A short summary of the primary and secondary documents to appear in the index follows: Primary Conditional Sale Agreement, dated as of June 1, 1987, between Southern Pacific Transportation Company, General Electric Company and

General Motors Corporation. Secondary Agreement and Assignment dated as of June 1, 1987 among General Electric Company, General Motors Corporation and First Pennsylvania Bank N.A., as agent for First Penn-Pacific Life Insurance Company, National Reinsurance Corporation, Security-Connecticut Life Insurance Company, American States Life Insurance Company, The Prudential Insurance Company of America, The Lincoln National Life Insurance Company and Lincoln National Pension Insurance Company.

A fee of \$10 is enclosed. Please return the original stamped and recorded copy and any extra copies not needed by the Commission for recordation to Benito M. Lopez, Esq. If you have any questions regarding this filing please contact Mr. Lopez at 212-820-1410 or the undersigned at 212-820-1808.

Sincerely yours,

Wilfred K. Chow

Wilfred K. Chow

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Wilfred K. Chow
Dewey, Ballantine, Bushey, Palmer & Wood
140 Broadway
New York 10005

7/29/87

Dear
Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/29/87 at 4:05pm, and assigned recordation number(s). 15276

Sincerely yours,

Norita R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

JUL 29 1987 -4 02 PM

INTERSTATE COMMERCE COMMISSION
CONDITIONAL SALE AGREEMENT

(Conditional Sale Indebtedness Series A
Due 2002)

Dated As of June 1, 1987,

Between Each of

GENERAL ELECTRIC COMPANY,
GENERAL MOTORS CORPORATION,

and

SOUTHERN PACIFIC TRANSPORTATION COMPANY

AGREEMENT AND ASSIGNMENT

Dated as of June 1, 1987

Between Each of

GENERAL ELECTRIC COMPANY
GENERAL MOTORS CORPORATION,
Builders

and

FIRST PENNSYLVANIA BANK N.A.,
as Agent,
Assignee

Filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 on July __, 1987, at ___ p.m., recordation number _____. Filed with the Office of the Secretary of State of the State of California pursuant to Chapter 4 of Division 9 of the California Commercial Code on August __, 1987, at ___ p.m., recordation number _____. Filed with the Office of the Secretary of State of Illinois pursuant to Ill. Stat. tit. 26, §9-302 (1981) on August __, 1987, at ___ p.m., recordation number ___. Filed with the Office of the Secretary of State of the Commonwealth of Pennsylvania pursuant to Chapter 94, § 9401 of the Pennsylvania Commercial Code on August __, 1987, at ___ p.m., recordation number __.

CONDITIONAL SALE AGREEMENT

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CONDITIONAL SALE AGREEMENT dated as of June 1, 1987, between each of GENERAL ELECTRIC COMPANY and GENERAL MOTORS CORPORATION (collectively the "Builders" or severally the "Builder", or collectively or severally the "Vendor" as the context may require, all as more particularly set forth in Article 1 hereof) and SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation (the "Railroad").

WHEREAS the Builders severally have agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the railroad equipment described in Schedule B hereto (the aggregate of such equipment being referred to herein as the "Equipment" and each individual locomotive described in said Schedule B being referred to herein as a "unit" of the Equipment);

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

ARTICLE 1. Certain Definitions; Obligations of the Builders Several. The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, each of the corporations named in Item 1 of Schedule A hereto (as to the units of Equipment to be constructed by such corporation and sold hereunder), and any successor or successors for the time being to its respective manufacturing properties and businesses, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. The term "Builder", whenever used in this Agreement, means, both before and after any such assignment, each of the corporations named in Item 1 of Schedule A hereto (as to the units of Equipment to be constructed by such corporation and sold hereunder), and any successor or successors for the time being to its respective manufacturing properties and businesses.

The rights and obligations of the Builders under this Agreement are several in accordance with their interests and not joint. Accordingly, whenever this Agreement, by the use of such designation as "the Vendor", "such Builder" or other similar term, confers a right or imposes an obligation upon any corporation named in Item 1 of Schedule A hereto or its successor, such right or obligation shall be construed to accrue to or to be enforceable against only the specific corporation furnishing the units of Equip-

ment giving rise to such right or obligation and its successors as herein provided.

ARTICLE 2. Construction and Sale. Pursuant to this Agreement each Builder shall construct the units of the Equipment to be constructed by it as described in Schedule B hereto (such units of Equipment with respect to such Builder being hereinafter called "its Equipment") at its plant set forth in said Schedule B and will sell and deliver to the Railroad, and the Railroad will purchase from such Builder and accept delivery of and pay for (as hereinafter provided), such Equipment, each unit of which shall be constructed in accordance with the specifications set forth therefor in Schedule B hereto and in accordance with such modifications thereof as may be agreed upon in writing between such Builder and the Railroad and consented to in writing by the Vendor of such Equipment pursuant to the Finance Agreement if the Vendor is the assignee pursuant to this Agreement of such Builder (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design, quality and component parts of each unit of the Equipment shall conform, on the date of the applicable Specifications, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to equipment of the character of such units of the Equipment and each unit of the Equipment (except to the extent, if any, referred to in Schedule A hereto and/or in Article 8 hereof) shall be new railroad equipment.

ARTICLE 3. Inspection and Delivery. Each Builder will deliver the units of Equipment to the Railroad at the place or places specified in Schedule B hereto or at such other place or places as the Railroad and the Builder may agree, freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Schedule B hereto; provided, however, that no Builder shall have any obligation to deliver any unit of its Equipment hereunder at any time after the commencement of any proceedings or event specified in clause (f), (g), (h), (i) or (j) of Article 17 hereof or if any Event of Default (as described in Article 17 hereof), or event which with lapse of time and/or demand could constitute such an Event of Default (a "Default"), shall have occurred.

Each Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond such Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equip-

ment or facilities, delays in receiving necessary materials or Equipment or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 3, any Equipment not delivered, accepted and settled for pursuant to Article 4 hereof on or before June 1, 1988, or such other date as the parties may agree upon, shall be excluded herefrom. If any unit or units of Equipment shall be excluded from this Agreement pursuant to the immediately preceding sentence, the Builder or Builders of such unit or units and the Railroad shall execute an agreement supplemental hereto limiting this Agreement to the units of Equipment not so excluded herefrom. If a Builder's failure to deliver Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, the Railroad shall nevertheless be obligated to accept such Equipment and pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by such Builder, such payment to be in cash on the delivery of such Equipment, either directly or, in case the Railroad shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Railroad shall determine and as shall be reasonably acceptable to such Builder.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Railroad and each Builder shall grant to such authorized inspectors reasonable access to its plant. Each Builder agrees to inspect all materials used in the construction of the Equipment in accordance with the standard quality control practices of such Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Railroad for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards referred to in Article 2 hereof applicable thereto, such inspector or an authorized representative of the Railroad shall execute and deliver to such Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Railroad and are marked in accordance with Article 7 hereof; provided, however, that such Builder shall not thereby be relieved of its warranty referred to in Article 14 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Railroad will assume the responsibility and risk of, and shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of such unit; provided, however, that such delivery shall not thereby relieve any Builder of its warranty referred to in Article 14 hereof.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Schedule B hereto (the "Base Price" or "Base Prices"). Such Base Price or Prices are subject to such increase or decrease as may be agreed to by the Builder thereof and the Railroad. The term "Purchase Price" as used herein shall mean the Base Price or Prices as so increased or decreased. The Purchase Price as of the date hereof for each unit of the Equipment manufactured by General Electric Company shall be \$1,075,951 (which Purchase Price includes an estimate of \$451 for switching and freight charges per unit of Equipment for transport to trunk line railroad and which is subject to adjustments to reflect the actual amount for switching and freight charges, which shall be paid by the Railroad through an increase in the Purchase Price). The Purchase Price as of the date hereof for each unit of the Equipment manufactured by General Motors Corporation shall be \$1,078,485. The "Floor Price", as used herein, of any unit of the Equipment shall mean the lesser of the Base Price and the Purchase Price therefor. If the aggregate Purchase Price of Equipment for which settlement has been or is then proposed to be made under this Agreement is in an amount in excess of \$70,906,000, the Railroad may, at its option, exclude from this Agreement any unit or units of Equipment for which settlement has not been made and the Builder or Builders (and any assignee of the Builders) shall, upon request of the Railroad enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Railroad but fully preserving such Builder's security interest in such Equipment in a manner acceptable to such Builder, as will, after giving effect to such exclusion, reduce the aggregate Purchase Price under this Agreement to not more than \$70,906,000, and the Railroad agrees to purchase any such unit or units so excluded from this Agreement and to pay the Builder in cash on the date such unit or units would otherwise have been settled for under this Agreement either directly, or, in case the Railroad shall arrange therefor, by means of a conditional sale, equipment trust or other appropriate method of financing, as the Railroad shall determine and as shall be reasonably acceptable to such Builder.

For the purpose of making settlement, the Equipment shall be divided into groups of units of the Equipment, accepted by and delivered to the Railroad (each such group being hereinafter called a "Group") as follows. The term "Closing Date" shall mean the dates set forth in this paragraph. The first Closing Date for the Equipment manufactured by General Electric Company ("GE") shall be on or about August 27, 1987 for the Group that has been accepted by and delivered to the Railroad at GE's factory in Erie, Pennsylvania on or prior to the date which falls ten (10) business days prior to that Closing Date. Subsequent Closing Dates will be: (1) on or about September 24, 1987 for

units of Equipment accepted by and delivered to the Railroad at GE's factory in Erie, Pennsylvania, but not yet settled for, on or prior to the date which falls ten (10) business days prior to that Closing Date; and (2) a final Closing Date which shall be agreed upon by GE and the Railroad, but which shall occur no later than ten (10) business days after the date of acceptance by and delivery to the Railroad at GE's factory in Erie, Pennsylvania of the last unit. The first Closing Date for the Equipment manufactured by General Motors Corporations ("GM") shall be on or about January 25, 1988, for the Group that has been accepted by and delivered to the Railroad at a place (other than in the State of California) to be mutually agreed upon between GM and the Railroad within 60 days of July 8, 1987 (the "GM Place of Delivery") on or prior to the date which falls (10) ten business days prior to that Closing Date. Subsequent Closing Dates will be: (1) on or about February 25, 1988 for units of Equipment accepted by and delivered to the Railroad at the GM Place of Delivery but not yet settled for on or prior to the date which falls ten (10) business days prior to that Closing Date and; (2) a final Closing Date which shall be agreed upon by GM and the Railroad, but which shall occur no later than ten (10) business days after the date of acceptance by and delivery to the Railroad at the GM Place of Delivery of the last unit. An invoice or invoices and the Certificate or Certificates of Acceptance shall be presented by each Builder eight (8) business days prior to each Closing Date relating to the delivery of its units of Equipment specified above. The closing on each Closing Date shall take place as provided in the Assignment.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on each Closing Date the amount, if any, by which (x) the aggregate Purchase Price of all units of the Equipment for which settlement has theretofore and is then being made, as stated in the invoice or invoices presented in respect of such Closing Date (said invoiced prices being hereinafter called the "Invoiced Purchase Prices"), exceeds (y) the sum of (i) the aggregate of the Floor Prices for all units of the Equipment for which settlement has theretofore and is then being made, (ii) the aggregate amount, if any, by which the Base Prices of any such units of Equipment exceed the Invoiced Purchase Prices therefor, and (iii) any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this subparagraph (a); and

(b) in 15 consecutive equal annual installments, as hereinafter provided, an amount equal to the aggregate of the Invoiced Purchase Prices for all of the Equipment less the amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (the aggregate of said installments being hereinafter called the "Conditional Sale Indebtedness Series A Due 2002" or "Series A Indebtedness").

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

The installments of the Series A Indebtedness payable pursuant to subparagraph (b) of the third paragraph of this Article 4 shall be payable annually on June 1 in each year commencing on June 1, 1988, to and including June 1, 2002. The unpaid portion of the Series A Indebtedness shall bear interest from the respective Closing Dates on which such indebtedness was incurred at the rate of 9.35% per annum. Such interest shall be payable, to the extent accrued, on June 1 and December 1 in each year (severally an "Interest Payment Date"), commencing December 1, 1987.

The Railroad shall provide written notice to the Vendor and Messrs. Dewey, Ballantine, Bushby, Palmer & Wood, special counsel for the Vendor pursuant to the Assignment (as defined in Article 17 hereof), at least six business days prior to each Closing Date designated herein.

The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Philadelphia, Pennsylvania, are authorized or obligated to remain closed.

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

The Railroad will pay, to the extent legally enforceable, interest at a rate per annum (the "Overdue Rate") equal to the greater of (i) 10.35% or (ii) the rate of interest publicly announced by Morgan Guaranty Trust Company

of New York from time to time in New York City as its Prime Rate upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 8 hereof, the Railroad shall not have the privilege of prepaying any installment of its indebtedness hereunder prior to the date it becomes due.

The Railroad agrees that, notwithstanding any provision of this Agreement or of any other agreement or instrument, or any presumption of any present or future law to the contrary, this Agreement shall not terminate except as expressly provided herein, and the Railroad's obligation to pay all annual installments of the Series A Indebtedness plus interest accrued thereon as provided in this Article 4 and other sums payable hereunder is absolute and unconditional and shall not be subject to any abatement, reduction, setoff, defense, counterclaim or recoupment for any reason whatsoever.

The Railroad hereby waives, to the extent permitted by laws, all right to terminate, cancel, revoke or quit this Agreement, except in accordance with the express terms of this Agreement. If for any reason this Agreement shall be invalid or unenforceable, or if this Agreement shall be terminated in whole or in part by operation of law or otherwise (except as expressly provided in this Agreement), the Railroad nonetheless agrees to pay to the Vendor each annual installment of the Series A Indebtedness plus interest accrued thereon as provided in this Article 4 at the time such payments would have become due and payable (including, without limitation, upon the exercise of any of the Vendor's remedies under Article 18 hereof) in accordance with the terms of this Agreement had such invalidity, unenforceability or termination in whole or in part not occurred.

In the event the Vendor, pursuant to Article 16 hereof, assigns the right to receive the payments herein provided to be made by the Railroad, the assignee thereof may request the Railroad to make and the Railroad shall make such payments to it in Federal or other immediately available funds at such address as shall be supplied to the Railroad by the assignee. If there shall be more than one assignee, the Railroad shall make such payments in Federal or other immediately available funds to each assignee in such proportions and at such addresses as shall be specified in an instruction jointly executed by or on behalf of such assignees and delivered to the Railroad.

ARTICLE 5. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales or use taxes], excess profits and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "impositions"), all of which impositions the Railroad assumes and agrees to pay on demand. The Railroad will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the title of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Railroad shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any such impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Railroad shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Railroad shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Railroad shall have approved the payment thereof. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 6. Title to the Equipment. The Vendor shall and hereby does retain the full legal title to and property in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof, including such replacements as provided in Articles 8 and 9

hereof, and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement; provided, however, that nothing herein shall result in any Builder having any liability or obligation with respect to any such accessions not manufactured or supplied by it.

Except as otherwise specifically provided in Article 8 hereof, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor on the date which is the later to occur of (i) the date on which the Series A Indebtedness, together with interest thereon, including any interest payable hereunder at the Overdue Rate, and all other amounts required to be paid by the Railroad as herein provided (other than amounts which may thereafter be payable pursuant to any obligation (an "Indemnity Obligation") of the Railroad hereunder to indemnify or reimburse the Vendor which, as provided herein, shall survive the termination of this Agreement) shall have been paid in full by the Railroad, and all other obligations herein contained shall have been performed by the Railroad, and (ii) the date on which all amounts payable pursuant to an Indemnity Obligation required to be paid on or before such date have been paid. However, the Vendor, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring its title thereto and property therein to the Railroad, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address referred to in Article 23 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Railroad to the Equipment and (c) pay to the Railroad any money paid to the Vendor pursuant to Article 8 hereof and not theretofore applied as therein provided. The Vendor shall not be responsible for the payment of any penalty or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 7. Marking of the Equipment. The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule B hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or

supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Interest Filed with Interstate Commerce Commission" or other appropriate markings approved by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's title to and property in the Equipment and its rights under this Agreement. The Railroad will not place any such unit in operation or exercise any control or dominion over the same until such markings have been made thereon and will replace promptly any such markings which may be removed, defaced or destroyed. The Railroad will not change the number of any unit of the Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed, recorded and deposited by the Railroad in all public offices where this Agreement and any financing statement in respect of the Equipment shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Railroad will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates (as defined in Article 11 hereof).

ARTICLE 8. Prepayment of Series A Indebtedness; Replacement Equipment.

A. Casualty Occurrences. In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, irreparably damaged or otherwise rendered permanently unfit for use from any cause whatsoever, or possessed or controlled by any person (other than an affiliate as defined in Article 11 hereof) without the Railroad's consent for more than 30 days (provided that such possession or control does not constitute an Event of Default under clause (k) of Article 17 hereof), or taken or requisitioned by condemnation or otherwise, or confiscated, attached, impounded, seized or held by any foreign governmental authority for any cause whatsoever and not released pursuant to a final, nonappealable order or act into the custody of the Railroad for a period of 30 days following such confiscation, attachment, impoundment, seizure or holding (such occurrences being hereinafter called "Casualty Occurrences"), the Railroad shall promptly (after it has knowledge of such Casualty Occurrence) and fully inform the Vendor in writing in regard thereto. When the aggregate Re-

replacement Value (as defined in the second paragraph of subparagraph C of this Article 8) of all units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 8) hereunder shall exceed \$6,000,000 (or such lesser amount as the Railroad may elect), the Railroad, within 90 days after the Railroad has knowledge of such event, shall file with the Vendor an Officers' Certificate setting forth the Replacement Value of each unit of the Equipment having suffered a Casualty Occurrence and, subject to the provisions of subparagraph B of this Article 8, shall on the Interest Payment Date next succeeding the date of filing of such certificate prepay a principal amount of Series A Indebtedness (after payment of interest thereon due on such date) equal to the aggregate Replacement Value as of the date of such payment of such unit or units of the Equipment having suffered a Casualty Occurrence, together with all accrued interest on such sum so being prepaid, but without premium.

For purposes of this Agreement, "Officers' Certificate" means a certificate signed by two Officers, who consist of the Chairman of the Board, the President, the Secretary, Treasurer, the Chief Mechanical Officer or a Vice-President of the Railroad ("Officers").

B. Substitution of Equipment in Lieu of Prepayment. If and so long as no Event of Default (as defined in Article 17 hereof) shall have occurred and be continuing hereunder, in lieu of making all or any portion of any prepayment of the Series A Indebtedness as provided in the preceding subparagraph A of this Article 8, the Railroad may, on or before the applicable date for payment, cause to be transferred to the Vendor a replacement unit or units of equipment consisting of locomotives of the same or superior capacity and quality as compared to the units of Equipment having suffered a Casualty Occurrence first put into service by the first user thereof or remanufactured no earlier than July 8, 1987, and receive credit against the principal amount of Series A Indebtedness it would otherwise have been required to prepay in an amount equal to the value thereof. The value of any unit or units of replacement equipment shall be equal to the cost thereof, if new, as specified in the invoice therefor delivered to the Vendor or, if not new, the lesser of (y) the fair market value thereof or (z) the original cost thereof less depreciation at a rate equal to 1/15th of such cost for each year in service, and such unit or units of replacement equipment shall have a remaining useful life at least as long as that which the unit of Equipment being replaced would have had but for the Casualty Occurrence.

In case the Railroad elects so to transfer replacement equipment to the Vendor in lieu of making all or

any part of any prepayment of the Series A Indebtedness, the Railroad shall deliver to the Vendor at or after the time of such replacement and prior to the applicable payment date an Officers' Certificate as to compliance with the foregoing provisions of this subparagraph B. Such certificate shall be accompanied by an opinion of counsel, addressed to the Vendor, covering the matters set forth in the first paragraph of subparagraph D below.

C. Prepayments; Definitions of Replacement Value. In case any money is applied to prepay Series A Indebtedness pursuant to this Article 8, it shall be credited against the last installment of the aggregate Series A Indebtedness thereafter falling due and, to the extent of any excess of such prepayment over the last installment, the next preceding installments, in whole or in part, provided that any such installment shall be credited in whole before the next preceding installment is credited.

The Replacement Value of each unit of the Equipment (other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the original Purchase Price thereof (less, in the event that the Railroad shall have made any payment or payments under the provisions of subparagraph (a) of the third paragraph of Article 4 hereof, an amount which bears the same ratio to the aggregate of all such payments as the original Purchase Price of such unit bears to the original aggregate Purchase Price of all the Equipment) as the unpaid Series A Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to the applicable Casualty Occurrence bears to the original Series A Indebtedness. The Replacement Value of each replacement unit shall be deemed to be that amount which bears the same ratio to the value thereof (determined as provided in subparagraph B of this Article 8) as the unpaid Series A Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid Series A Indebtedness (without giving effect to any such prepayments) as of the date of acquisition by the Vendor of such replacement unit.

D. Title to Replacement Units. The Railroad will cause any replacement unit or units to be marked as provided in Article 7 hereof. Any and all replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement; provided, however, that nothing herein shall result in any Builder having any liability or obligation with respect to any replacement unit or units not

manufactured by it. Title to all such replacement units shall be free and clear of all liens and encumbrances except the liens permitted by the second paragraph of Article 12 hereof and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall execute, acknowledge, deliver, file, refile, record or deposit all such documents, financing statements or continuation statements and do any and all such acts as may be necessary to cause such replacement units to come under and be subject to this Agreement and to protect the rights of the Vendor hereunder and its status as first priority lienholder with respect to such replacement units. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment.

In order to facilitate the sale or other disposition of any Equipment suffering a Casualty Occurrence in respect of which the Railroad shall have paid to the Vendor the Replacement Value and/or shall have caused to be transferred to the Vendor replacement equipment, the Vendor shall, upon request of the Railroad, execute and deliver to the Railroad or the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment thereof, and such other documents as may be required to release such Equipment thereof from the terms and scope of this Agreement, in such form as may be reasonably requested by the Railroad.

E. Payment of Insurance Proceeds. Upon (i) the prepayment in full of the principal amount of the Series A Indebtedness required to be prepaid pursuant to subparagraph A of this Article 8, or (ii) the transfer of replacement equipment to the Vendor in lieu of making all or any part of such prepayment of the Series A Indebtedness pursuant to subparagraph B of this Article 8 together with, in the case of a transfer of replacement equipment in lieu of making a part of such prepayment, the payment by the Railroad of the balance of such required prepayment to the Vendor, in each case accompanied by such Officers' Certificate or opinion of counsel as required in this Article 8 in connection therewith, the Vendor shall forthwith pay to the Railroad the proceeds of insurance in respect of the unit or units of Equipment having suffered a Casualty Occurrence that the Vendor has received pursuant to Article 9 hereof.

ARTICLE 9. Maintenance; Compliance with Laws and Rules. The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair, with such replacements of parts thereof as may be necessary, at its own expense. The Railroad hereby covenants that all such maintenance, repairs and replacements of parts with respect to any of the units of Equipment will be effected in such manner that, after giving effect thereto,

the aggregate fair market value of all the units of Equipment delivered to and accepted and purchased by the Railroad hereunder will be equal to or greater than the aggregate Replacement Value (calculated pursuant to Article 8 hereof) of all such units.

During the term of this Agreement, the Railroad will at all times comply in all respects with all laws of the jurisdictions in which its operation involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of any part on any unit of the Equipment, the Railroad will conform therewith, at its own expense; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement. The Railroad will at all times prior to the payment in full of the Series A Indebtedness, together with interest thereon and all other payments required hereby, at its own expense, carry and maintain insurance in respect of the Equipment at the time subject hereto, and public liability insurance, naming the Vendor (if an assignee hereunder of the Builders) as the payee under all such insurance (subject to subparagraph E of Article 8 hereof), in amounts and against risks customarily insured against by railroad companies in respect of similar equipment, and in any event in amounts and against risks comparable to those insured against by the Railroad on similar equipment owned by it.

ARTICLE 10. Reports and Inspections. On or before March 31 in each year, commencing with the calendar year 1988, the Railroad shall furnish to the Vendor an Officers' Certificate (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) or that have been withdrawn from use pending repairs (other than running repairs) or any substantial modification and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request, (b) stating that, as at the preceding December 31, the aggregate fair market value of all units of the Equipment delivered to and accepted and purchased by the Railroad hereunder is equal to or greater than the aggregate Replacement Value (as calculated pursuant to Article 8 hereof) of

all such units of Equipment and (c) stating that, in the case of all Equipment repaired, modified or repainted during the period covered by such statement, the numbers and markings required by Article 7 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 11. Possession and Use. The Railroad, so long as an Event of Default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the Equipment and the Railroad and any affiliate shall have the full right of use thereof by lease or otherwise upon the railroad lines owned or operated by it either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any affiliate, or over which it has trackage rights, or upon the lines of connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, from and after delivery of the Equipment by the Builder to the Railroad, but only upon and subject to all the terms and conditions of this Agreement, and the Railroad may receive compensation for such use; provided, however, that the Railroad agrees not to use, assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America and agrees that any use of any unit of the Equipment outside the United States of America will be limited to incidental and temporary use in Canada or Mexico. The word "affiliate", as used in this Article 11 and in Article 7 thereof, shall mean a railroad corporation organized under the laws of the United States of America or of any state thereof or of the District of Columbia which, directly or indirectly controls, or is controlled by, or is under common control with, the Railroad.

ARTICLE 12. Prohibition Against Liens. The Railroad will pay or discharge any and all sums claimed by any party from, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien, charge or security interest on the Equipment, or any unit or part thereof; provided, however, that the Railroad shall be under no obligation to pay or discharge any such claim so long as it is contesting in good faith and by appropriate legal proceedings such claim and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or such unit or part thereof or otherwise under this Agreement; provided further, however, that the Railroad shall have maintained a reserve for such claims in accordance with generally accepted accounting principles ("GAAP"). If any such claims shall have been made against the Vendor directly and paid by the Vendor, or if any amounts shall have been paid by the

Vendor in discharge of liens, charges or security interests upon the Equipment, the Railroad shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that prior to paying any such claim, Vendor shall give notice thereof to the Railroad and afford the Railroad a reasonable opportunity to consult with the Vendor as to the appropriate response to such claim; and provided further, however, that the Vendor shall not be bound by any such consultation and that such consultation or Vendor's refusal to be bound thereby shall not affect Vendor's right to reimbursement under this Article 12. Such covenant of reimbursement shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

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

ARTICLE 13. Railroad's Indemnities. The Railroad agrees to indemnify, protect and hold harmless 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 reasonable counsel fees, arising out of retention by the Vendor of title to the Equipment, the use and operation thereof by the Railroad during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement, including any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by any Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 14. Patent Indemnities; Builders' Representations and Warranties. Each Builder represents, assuming the completeness and accuracy of the representations of the Investors (as defined in the Finance Agreement) set forth in Paragraph 10 of the Finance Agreement, that it has not entered into this Agreement and is not entering into the Assignment, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"));

The agreement of the parties relating to each Builder's warranty of material and workmanship, is set forth in Item 2 of Schedule A hereto and the agreement of the parties relating to patent indemnification is set forth in Item 3 of said Schedule A. The agreement of the parties relating to the limitation of liability of General Electric Company is set forth in Item 2(a) and Item 3(a) of said Schedule A.

ARTICLE 15. Representations and Warranties of the Railroad. The Railroad hereby represents and warrants, as of the date hereof, to the Vendor:

(a) ORGANIZATION AND QUALIFICATION. The Railroad is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware, the Railroad has the corporate power to own its property and to carry on its business as now being conducted, and the Railroad is duly qualified or otherwise authorized as a foreign corporation to do business and in good standing in every jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary. The Railroad has either built or acquired its railroad lines prior to the Interstate Commerce Commission ("ICC") acquiring jurisdiction over the same or has been issued by the ICC all certificates of public convenience and necessity required for the operation and/or construction of the Railroad's railroad lines, and all such certificates are currently in full force and effect, save and except those involving abandonment, discontinuance or sale proceedings in the ordinary course of business.

(b) VALID AND BINDING OBLIGATIONS. The Railroad has the corporate power and authority to enter into this Agreement, the Acknowledgment of Notice of Assignment attached to the Assignment (as defined in Article 17 hereof) ("the Acknowledgment") and the Finance Agreement (as defined in Article 17 hereof) and to perform its obligations hereunder and thereunder; this Agreement, the Acknowledgment and the Finance Agreement have been duly authorized, executed and delivered by the Railroad and, assuming the due authorization, execution and delivery hereof and thereof by the other parties hereto and thereto, constitute the Railroad's valid and binding obligations, enforceable against the Railroad in accordance with their respective terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles. The Certificates of Interest are entitled to the benefits of the Finance Agreement.

(c) NO CONFLICTING REQUIREMENTS. The Railroad is not in violation of or in default under any term or provision of any charter, by-law, partnership agreement, mortgage, indenture, agreement, instrument, statute, rule, regulation, judgment, decree, order, writ or injunction applicable to it, such that such violations or defaults might materially and adversely affect the ability of the Railroad to perform its obligations under this Agreement or the Finance Agreement or the validity or enforceability of the Acknowledgment.

(d) ACTIONS PENDING. There is no action, suit, investigation or proceeding pending or, to the knowledge of the Railroad, threatened against the Railroad or any properties or rights of the Railroad or any of its Subsidiaries, by or before any court, arbitrator or administrative or governmental body which might materially and adversely affect the ability of the Railroad to perform its obligations under this Agreement or the Finance Agreement or which brings into question the authenticity, validity or enforceability, in any respect material to the Vendor, of (1) any sale of any Certificate of Interest pursuant to the Finance Agreement, (2) any other transactions contemplated by this Agreement or the Finance Agreement, (3) the purchase by the Railroad of the Equipment under this Agreement, (4) the acquisition or ownership by the Vendor of title to the Equipment under the Assignment, (5) the Acknowledgment or (6) any certificates and any other documents or instruments referred to in this Agreement or the Finance Agreement.

As used herein, "Subsidiary" shall mean any corporation organized under the laws of any State of the United States of America, Canada, or any Province of Canada, which conducts the major portion of its business in and makes the major portion of its sales to persons located in the United States of America or Canada, and all of the stock of every class of which, except directors' qualifying shares, shall, at the time as of which any determination is being made, be owned by the Railroad either directly or through Subsidiaries.

(e) CONFLICTING AGREEMENTS AND OTHER MATTERS. The Railroad is not a party to any contract or agreement or subject to any charter or other corporate restriction which materially and adversely affects its business, property or assets, or financial condition. Neither the execution nor delivery of this Agreement, the Acknowledgment or the Finance Agreement, nor the offering, issuance and sale of the Certificates of Interest (as defined in Article 21 hereof), nor ful-

fillment of nor compliance with the terms and provisions hereof or thereof will conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in any violation of, or result in the creation of any lien upon any of the properties or assets of the Railroad pursuant to, the charter or by-laws of the Railroad, any award of any arbitrator or any agreement (including any agreement with stockholders), instrument, order, judgment, decree, statute, law, rule or regulation to which the Railroad is a party or otherwise subject.

(f) GOVERNMENTAL CONSENT. Neither the nature of the Railroad nor any of its businesses or properties, nor any relationship between the Railroad and any other person, nor any circumstances in connection with the execution and delivery of this Agreement, the Assignment, the Finance Agreement or the Acknowledgment or the offering, issuance, sale or delivery of the Certificates of Interest is such as to require any authorization, consent, approval, exemption or other action by or notice to or filing with any court or administrative or governmental body (other than routine filings after the date of closing with the Interstate Commerce Commission, the Securities and Exchange Commission and/or state Blue Sky authorities) in connection with the execution and delivery of this Agreement, the Assignment, the Finance Agreement or the Acknowledgment or the offering, issuance, sale or delivery of the Certificates of Interest or fulfillment of or compliance with the terms and provisions hereof or thereof, or, if any such authorization, consent, approval, exemption or other action or notice or filing is necessary, it has been obtained, given or made.

(g) DISCLOSURE. Neither this Agreement nor any schedules attached hereto (other than Schedule A) nor any other document, certificate or statement furnished to the Vendor by or on behalf of the Railroad in connection herewith contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading. There is no fact peculiar to the Railroad which materially adversely affects or in the future may (so far as the Railroad can now reasonably foresee) materially adversely affect the business, property or assets, or financial condition of the Railroad and which has not been set forth in this Agreement or the schedules hereto (other than Schedule A) or in the other documents, certificates and statements furnished to the Vendor by or on behalf of the Railroad prior to the date hereof in connection with the transactions contemplated hereby.

ARTICLE 16. Assignments etc. The Railroad shall not sell, assign, transfer or otherwise dispose of its rights under this Agreement to any other entity and it shall not, and shall not permit any Subsidiary to, sell or lease any of its or such Subsidiary's assets or enter into any merger agreement with or combination with or into any other entity, in each case, without the prior written consent of the Vendor, unless (i) immediately after giving effect to such assignment, sale or lease, merger or combination, each entity which is a prime obligor or guarantor under this Agreement and the Finance Agreement shall be a Class 1 railroad the Philadelphia Plan Equipment Trust Certificates of which are publicly rated Single A or better by Moody's Investors Service, Inc. or Standard & Poor Corporation, (ii) each prime obligor or guarantor under this Agreement and the Finance Agreement referred to in the preceding clause (i) (other than the Railroad) which meet the criteria set forth in such clause (i) shall, by execution of an appropriate instrument satisfactory to the Vendor, assume and agree to perform each and all of the obligations and covenants of the Railroad under this Agreement and the Finance Agreement and (iii) prior to and immediately after giving effect to such transaction, no Event of Default (as defined in Article 17 hereof) or Default (as defined in Article 3 hereof) shall exist. Except as the result of an assignment of this Agreement pursuant to the preceding sentence or as provided in Article 11 hereof, Railroad shall not lease or transfer the right to possession of any unit of Equipment.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Builder from, any of the obligations of such Builder to construct and deliver the Equipment in accordance with this Agreement or to respond to its respective warranties and indemnities contained or referred to in Article 14 hereof, or relieve the Railroad of any of its obligations to and agreements with the Builder under Articles 2, 3, 4, 5, 13 and 14 hereof, Schedule A hereto and this Article 16 or of any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any

such assignment, all payments thereafter to be made by the Railroad under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Railroad recognizes that it is the custom of railroad equipment manufacturers to assign conditional sale agreements and understands that the assignment of this Agreement, or of some of or all the rights of the Vendor hereunder, is contemplated. The Railroad expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder and for the purposes of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of the Purchase Price or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of a Builder with respect to the Equipment of such Builder or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by a Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Railroad against and only against the respective Builder.

The Railroad will (a) in connection with each settlement for the Equipment subsequent to such assignment, deliver to the assignee, at least five business days prior to the Closing Date for the Group fixed in the notice by the Railroad, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee and any documents to be furnished by a Builder, and (b) furnish to such assignee such number of counterparts of any other certificate or paper required by the Vendor as may reasonably be requested.

If this Agreement shall have been assigned by the Builders and the assignee shall not make payment to a Builder with respect to units of the Equipment of such Builder as provided in the instrument making such assignment, such Builder will promptly notify the Railroad of such event and, if such amount shall not have been previously paid by such assignee, the parties hereto will, upon the request of such Builder, enter into an appropriate written agreement with such Builder excluding from this Agreement those units of Equipment of such Builder for which the ag-

gregate Purchase Price shall not have been received, but fully preserving such Builder's security interest in such Equipment in a manner acceptable to such Builder, and the Railroad will, not later than 30 days after the date such payment was due, pay or cause to be paid to such Builder the aggregate unpaid Purchase Price of such units of the Equipment of such Builder, together with interest from the day such payment was due to the date of payment by the Railroad at the lesser of (x) the highest prime rate of interest charged by any of the four New York City banks having the largest total assets, in effect on the date such payment was due or (y) the highest rate permitted by law.

ARTICLE 17. Defaults. In the event that any one or more of the following events of default ("Events of Default") shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any installment of the aggregate Series A Indebtedness pursuant to Article 4 hereof or any amount owing to the Agent (as defined in the Finance Agreement) pursuant to subparagraph (a)(2) of Paragraph 6 of the Finance Agreement when the same shall become due; or

(b) the Railroad shall fail to make a prepayment of the Series A Indebtedness or transfer replacement equipment or effect a combination of both as required by Article 8 hereof when such action shall become due; or

(c) the Railroad shall fail to pay in full any interest on the Series A Indebtedness or any interest payable pursuant to subparagraph (c)(2) of Paragraph 6 of the Finance Agreement or any other sum (other than those described in subparagraphs (a) and (b) of this Article 17) payable by the Railroad as provided in this Agreement or in the Finance Agreement within five days after payment thereof shall be due hereunder; or

(d) the Railroad shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof or compliance therewith, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement or of any agreement, including the Agreement and Assignment dated as of June 1, 1987 (the "Assignment") among each of the Builders and First Pennsylvania Bank N.A., as agent (the "Agent"), and the Finance Agreement dated as of June 1, 1987 (the "Finance Agreement") by and among the Agent, the Railroad, Prudential and Lincoln National Investment Management Company ("Lincoln") as attorney-in-fact for certain investors, entered into concurrently herewith relating to the financing of the Equipment on its

part to be kept or performed or to make provisions satisfactory to the Vendor for such compliance; or

(e) any representation or warranty made by the Railroad herein or in Paragraph 10 of the Finance Agreement or in any writing furnished in connection with or pursuant to this Agreement shall be false in any material respect on the date as of which made; or

(f) any decree or order for relief in respect of the Railroad is entered under any bankruptcy, reorganization, compromise, arrangement, insolvency, readjustment of debt, dissolution or liquidation or similar law, whether now or hereafter in effect (herein called the "Bankruptcy Law") of any jurisdiction; or

(g) the Railroad makes an assignment for the benefit of creditors or is generally not paying its debts as such debts become due, or petitions or applies to any tribunal for, or consents to, the appointment of, or taking possession by, a trustee, receiver, custodian, liquidator or similar official, of the Railroad, or of any substantial part of the assets of the Railroad, or commences a voluntary case under the Bankruptcy Law of the United States or any proceedings (other than proceedings for the voluntary liquidation and dissolution of a Subsidiary) relating to the Railroad under the Bankruptcy Law of any other jurisdiction; or

(h) any such petition or application is filed, or any such proceedings are commenced, against the Railroad and the Railroad by any act indicates its approval thereof, consent thereto or acquiescence therein, or an order, judgment or decree is entered appointing any such trustee, receiver, custodian, liquidator or similar official, or approving the petition in any such proceedings, and such order, judgment or decree remains unstayed and in effect for more than 30 days; or

(i) any order, judgment or decree is entered in any proceedings against the Railroad decreeing the dissolution of the Railroad and such order, judgment or decree remains unstayed and in effect for more than 60 days; or

(j) any order, judgment or decree is entered in any proceedings against the Railroad decreeing a split-up of the Railroad which requires the divestiture of assets representing a substantial part, or the divestiture of the stock of a Subsidiary whose assets represent a substantial part, of the consolidated assets of the Railroad and its Subsidiaries (determined in accordance with generally accepted accounting principles)

or which requires the divestiture of assets, or stock of a Subsidiary which shall have contributed a substantial part of Consolidated Net Earnings (as defined below) for any of the three fiscal years then most recently ended, and such order, judgment or decree remains unstayed and in effect for more than 60 days; provided, however, that such order, judgment or decree shall not constitute an Event of Default hereunder if, after giving effect thereto, each entity which is a prime obligor or guarantor under this Agreement and the Finance Agreement shall be a Class 1 railroad the Philadelphia Plan Equipment Trust Certificates of which are publicly rated Single A or better by Moody's Investors Service, Inc. or Standard & Poor Corporation; or

(k) the Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or the Finance Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment.

then, (1) if such an Event of Default is an event specified in clause (f), (g), (h), (i) or (j) of this Article 17 (each an "Automatic Event of Default"), the entire indebtedness in respect of the Purchase Price of the Equipment, together with any interest thereon then accrued and unpaid shall become automatically due and payable without presentment, demand, protest or notice of any kind, all of which are hereby waived by the Railroad, and (2) if such an Event of Default is an event specified in any other clause of this Article 17, at any time after the occurrence of such an Event of Default the Vendor may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a "Declaration of Default") the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid and together with the Yield Maintenance Premium (as hereinafter defined), immediately due and payable, without further presentment, demand, protest, or other notice of any kind, all of which are hereby waived by the Railroad, provided that the Yield-Maintenance Premium shall be due and payable upon such Declaration of Default only if (x) such event is an Event of Default specified in any of clauses (a) to (e), inclusive, and (k) of this Article 17, (y) the Vendor shall have given to the Railroad, at least 10 business days before such Declaration of Default, written notice stating its intention so to declare the indebtedness in respect of the Purchase Price of the Equipment to be immediately due and payable and identifying one or more such Events of Default whose occurrence on or before the date of such notice permits such declaration and (z) one or more of the Events of Default so identified shall be continuing at the time of such declaration. Upon an auto-

matic acceleration as provided above or a Declaration of Default and thereafter, in each case the aggregate of the unpaid balance of such indebtedness and interest and Yield Maintenance Premium, if any and if applicable, shall bear interest ("Overdue Interest") from the date of such automatic acceleration or Declaration of Default, as the case may be, at the Overdue Rate to the extent legally enforceable. The Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest and Yield Maintenance Premium, if any and if applicable, and with any Overdue Interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated. The Railroad shall promptly notify the Vendor of any event which has come to its attention which constitutes, or which with the giving of notice and/or lapse of time could constitute, an Event of Default under this Agreement.

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

"Called Principal" shall mean, with respect to the Series A Indebtedness, the principal that is declared to be immediately due and payable pursuant to this Article 17.

"Consolidated Net Earnings" shall mean consolidated gross revenues of the Railroad and its Subsidiaries less all operating and non-operating expenses of the Railroad and its Subsidiaries including all charges of a proper character (including current and deferred taxes on income, provision for taxes on unremitted foreign earnings which are included in gross revenues, and current additions to reserves), but not including in gross revenues any gains (net of expenses and taxes applicable thereto) in excess of losses resulting from the sale, conversion or other disposition of capital assets (i.e., assets other than current assets), any gains resulting from the write-up of assets (other than the write-up of current assets as a result of revaluations or realignment of currencies), any equity of the Railroad or any Subsidiary in the unremitted earnings of any corporation which is not a Subsidiary, any earnings of any person acquired by the Railroad or any Subsidiary through purchase, merger or consolidation or otherwise for

any year prior to the year of acquisition, or any deferred credit representing the excess of equity in any Subsidiary at the date of acquisition over the cost of the investment in such Subsidiary; all determined in accordance with GAAP.

"Discounted Value" shall mean, with respect to the Called Principal of the Series A Indebtedness, the amount calculated by discounting all Remaining Scheduled Payments with respect to such Called Principal from their respective scheduled due dates to the Settlement Date with respect to such Called Principal, in accordance with accepted financial practice and at a discount factor (applied on a semiannual basis) equal to the Reinvestment Yield with respect to such Called Principal.

"Reinvestment Yield" shall mean, with respect to the Called Principal of the Series A Indebtedness, the yield to maturity implied by the Treasury Constant Maturity Series yields reported (for the latest day for which such yields shall have been so reported as of the business day next preceding the Settlement Date with respect to such Called Principal) in Federal Reserve Statistical Release H.15 (519) (or any comparable successor publication) for actively traded U.S. Treasury securities having a constant maturity equal to the remaining weighted average life to final maturity (calculated in accordance with accepted financial practice) of such Called Principal as of such Settlement Date. Such implied yield shall be determined (a) by calculating the remaining weighted average life to final maturity of such Called Principal rounded to the nearest quarter-year and (b) if necessary, by interpolating linearly between Treasury Constant Maturity Series yields.

"Remaining Scheduled Payments" shall mean, with respect to the Called Principal of the Series A Indebtedness, all payments of such Called Principal and interest thereon that would be due on or after the Settlement Date with respect to such Called Principal if no payment of such Called Principal were made prior to its scheduled due date.

"Settlement Date" shall mean, with respect to the Called Principal of the Series A Indebtedness, the date on which such Called Principal is declared to be immediately due and payable pursuant to this Article 17.

"Yield-Maintenance Premium" shall mean, with respect to the Series A Indebtedness, a premium equal to the excess, if any, of the Discounted Value of the Called Principal of the Series A Indebtedness over the sum of such Called Principal plus interest accrued thereon as of (including interest due on) the Settlement Date with respect to such Called Principal. The Yield-Maintenance Premium shall be in no event be less than zero.

ARTICLE 18. Remedies. At any time during the continuance of an Automatic Event of Default or a Declaration of Default, the Vendor may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 18 expressly provided, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any part of the Equipment has been interchanged to return the Equipment so interchanged), cause (a) the Equipment to be moved to such point or points on its lines as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor and (b) the Equipment to be moved to such interchange point or points of the Railroad as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Railroad until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Railroad and, at the Railroad's risk, to permit inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of an Automatic Event of Default or a Declaration of Default, the Vendor (after retaking possession of the Equipment hereinbefore in this Article 18 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment (and any insurance proceeds received by it pursuant to Article 9 hereof) in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment (and any such insurance proceeds) shall be given to the Railroad by telegram or registered mail, addressed as provided in Article 23 hereof, and to any other persons to whom the law may require notice, within 30 days after the occurrence of such Event of Default. In the event that the Vendor should elect to retain the Equipment (and any such insurance proceeds) and no objection is made thereto within the 30-day period described in the second proviso below, all the Railroad's rights in the Equipment (and any such insurance proceeds) shall thereupon terminate and all payments made by the Railroad may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid, the Yield Maintenance Premium, if any, and Overdue Interest, if any, and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing and storing the Equipment and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad (and any insurance proceeds received under Article 9 hereof shall be paid to the Railroad); provided, further, that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may retain such insurance proceeds but may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 18.

At any time during the continuance of an Automatic Event of Default or a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other

persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid, the Yield Maintenance Premium, if any, and Overdue Interest, if any, and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad (and any insurance proceeds received under Article 9 hereof shall be paid to the Railroad). The proceeds of such sale and any such insurance proceeds, less the attorney's fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine. The Vendor or the Railroad may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 23 hereof. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 18), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of the sums due to the Vendor from the Railroad hereunder. From and after the date of any such sale, the Railroad shall pay to the Vendor the per diem interchange for each unit of Equipment which shall not have been assembled, as hereinabove provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or

hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Vendor's rights or the Railroad's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults in payments.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Vendor upon demand, together with interest from the date of such demand to the date of payment by the Railroad at the Overdue Rate. If the Railroad shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

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

The foregoing provisions of this Article 18 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 19. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, it being the intention of the parties hereto that this Agreement

shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Railroad, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any unit thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 20. Recording. The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded and from time to time when required refiled and rerecorded with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. The Railroad will further cause all necessary filings and recordings, and, when required, refilings and rerecordings of this Agreement, any assignment hereof and any amendment or supplements hereto or thereto and/or appropriate financing statements or continuation statements to be made, and from time to time when required, refiled and rerecorded, in accordance with the applicable provisions of the Uniform Commercial Code of the State of California and of Illinois and of the Commonwealth of Pennsylvania (and, if the Railroad changes its chief place of business to, or if the GM Place of Delivery is in, a different state, in any such other state) and in any other place therein or in any other State of the United States of America or the District of Columbia where filing is required by applicable state or Federal law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in, and its status as first priority lienholder with respect to, the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement. The Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purposes specified in the immediately preceding sentence of this Article 20. The Railroad will furnish to the Vendor from time to time an opinion of counsel for the Railroad to the effect that all necessary filings and recordings have been made to protect the interests of the Vendor in, and its status as first priority lienholder with respect to, the Equipment.

The Railroad will promptly furnish to the Vendor certificates or other evidence satisfactory to the Vendor of such filing, registering, depositing and recording.

ARTICLE 21. Payment of Expenses. The Railroad agrees, whether or not the transactions hereby contemplated shall be consummated, to pay, and save each of Vendor, Lincoln and the Investors (as defined in the Finance Agreement) harmless against liability for the payment of, all out-of-pocket expenses (other than the fees and expenses of counsel for each Builder) arising in connection with the transactions contemplated in this Agreement, in the Assignment or in the Finance Agreement, including (i) all taxes (together in each case with interest and penalties, if any, and any income tax payable by each of Vendor, Lincoln and the Investors in respect of any reimbursement therefor) which may be payable in respect of the execution, delivery and performance of this Agreement, the Assignment, the Finance Agreement, or the execution, delivery or acquisition of any certificates of interest ("Certificates of Interest") issued under or pursuant to the Finance Agreement, (ii) all stenographic and duplication costs and the reasonable fees and expenses of special counsel to the Vendor, Lincoln and the Investors in connection with this Agreement, the Assignment, the Finance Agreement, the transactions contemplated hereby or thereby and any subsequent modification hereof or thereof or consent hereunder or thereunder and (iii) the cost and expenses, including reasonable attorney's fees, incurred by the Vendor in enforcing any of its rights under this Agreement, the Assignment or the Finance Agreement or incurred by any Investor in enforcing its rights under any Certificate of Interest or incurred by the Vendor, Lincoln or any Investor in complying with any subpoena or other legal process served upon it in connection with this Agreement, the Assignment, the Finance Agreement or the transactions contemplated hereby or thereby or by reason of any Investor having acquired any Certificate of Interest, including without limitation costs and expenses incurred in any bankruptcy case. The obligations of the Railroad under this Article 21 shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 22. Survival of Representations and Warranties. The representations, warranties and the covenants of the Railroad made herein shall remain operative and in full force and effect regardless of (a) any investigation made by or on behalf of the Vendor, or (b) payment to the Builders for any Equipment hereunder.

ARTICLE 23. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) to the Railroad, at the Southern Pacific Building, One Market Plaza, San Francisco, California 94105, attention of Vice President-Finance;

(b) to GE, at the indicated address for Transportation Systems Business Operations, specified in Item 1 of Schedule A hereto, attention of General Manager - Transportation Systems Marketing Department;

(c) to GM, at the indicated address for its Electro-Motive Division specified in Item 1 of Schedule A hereto, attention of Comptroller;

(d) to Messrs. Dewey, Ballantine, Bushby, Palmer & Wood, at 140 Broadway, New York, New York 10005, attention: Benito M. Lopez; and

(e) to any assignee of the Vendor or of the Railroad, at such address as may have been furnished in writing to each of the other parties hereto by such assignee,

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

ARTICLE 24. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Schedules hereto, exclusively states the rights of the Vendor and the Railroad with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Vendor and the Railroad.

ARTICLE 25. Law Governing. The Railroad represents that on the date hereof its chief place of business and its chief executive offices are located in the State of California. The Railroad covenants that it will promptly give notice to the Vendor of any change in its chief place of business and its chief executive offices. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of California; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303 and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof or any financing statement or other similar instrument in respect of this

Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 26. Execution. This Agreement may be executed in any number of counterparts, such counterparts together shall constitute but one and the same contract. It shall not be necessary that any counterpart be signed by all the parties. If this Agreement is assigned by any Builder, the original counterpart of this Agreement shall be deemed to be the counterpart executed by such Builder and delivered to such assignee. Each Builder shall be bound hereunder, notwithstanding the failure of any other Builder to execute and deliver this Agreement, or perform its obligations hereunder. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

W.S.

W.S. *representatives

GENERAL ELECTRIC COMPANY,

[Corporate Seal]

by

W.S. Butler

Title

W. S. Butler
General Manager - Transportation Systems
Marketing Department
Transportation Systems Business Operations

Attest:

W.S. Butler
~~XXXXXX~~ Secretary
Attesting

W.S.

GENERAL MOTORS CORPORATION,

[Corporate Seal]

by

Title

Attest:

Assistant Secretary

SOUTHERN PACIFIC TRANSPORTATION COMPANY,

[Corporate Seal]

by

Treasurer

Attest:

Assistant Secretary

Form Approved:

Assistant General Attorney

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 their officers, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

GENERAL ELECTRIC COMPANY,

[Corporate Seal]

by

Attest:

[Title]

Assistant Secretary

GENERAL MOTORS CORPORATION,

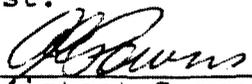
[Corporate Seal]

by

Attest:



General Manager
Electro-Motive Division



Assistant Secretary

SOUTHERN PACIFIC TRANSPORTATION
COMPANY,

[Corporate Seal]

by

Attest:

Treasurer

Assistant Secretary

Form Approved:

Assistant General Attorney

STATE OF ILLINOIS)
) ss.:
COUNTY OF DUPAGE)

On this day of July, 1987, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires:

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

On this 7th day of July, 1987, before me personally appeared A. Grant Warner, to me personally known, who, being by me duly sworn, says that he is a General Mgr. of Electro-Motive GENERAL MOTORS CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires: Feb. 24, 1990

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 their officers, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

GENERAL ELECTRIC COMPANY,

[Corporate Seal]

by

Attest:

[Title]

Assistant Secretary

GENERAL MOTORS CORPORATION,

[Corporate Seal]

by

Attest:

[Title]

Assistant Secretary

SOUTHERN PACIFIC TRANSPORTATION
COMPANY,

[Corporate Seal]

by

Attest:

E. J. Brady
Treasurer

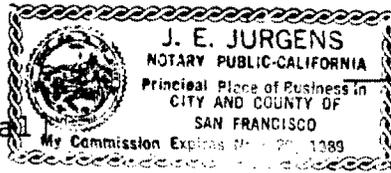
J. F. Adomell
Assistant Secretary

Form Approved:

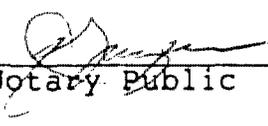
Henry A. [Signature]
Assistant General Attorney

STATE OF CALIFORNIA)
) ss.:
CITY AND COUNTY OF SAN FRANCISCO,)

On this 3rd day of July, 1987, before me personally appeared E. F. Gray, to me personally known, who, being by me duly sworn, says that he is the Treasurer of SOUTHERN PACIFIC TRANSPORTATION COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



[Notarial Seal]


Notary Public

My Commission expires: 11-20-87

Notary Public-California
City and County of
San Francisco

SCHEDULE A

Item 1: (a) General Electric Company, a New York corporation, with headquarters offices at 3135 Easton Turnpike, Fairfield, Connecticut 06431, acting through its Transportation Systems Business Operations, having offices at 2901 East Lake Road, Erie, Pennsylvania 16531.

(b) General Motors Corporation, a Delaware corporation, with offices at 3044 West Grand Boulevard, Detroit, Michigan 48202, acting through its Electro-Motive Division, having offices at La Grange, Illinois 60525.

Item 2: (a) General Electric Company (hereinafter in this Schedule A called GE) warrants to the Railroad that each unit of Equipment manufactured by it hereunder will be free from defects in material, workmanship and title under normal use and service, and will be of the kind and quality designated or described in the Specifications referred to in Article 2 of this Agreement. The foregoing warranty is exclusive and in lieu of all other warranties, whether written, oral, implied or statutory (except as to title). NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR PURPOSE SHALL APPLY. If it appears within two (2) years from the date of shipment by GE, or within 250,000 miles of operation, whichever event shall first occur, that the Equipment delivered by GE under this Agreement does not meet the warranties specified above, and the Railroad notifies GE promptly, GE, after verification as to condition and usage, shall correct any defect, including nonconformance with the Specifications, at its option, either by repairing any defective part or parts made available to GE, or by making available at GE's plant or warehouse, a repaired or replacement part. If requested by GE, the Railroad will ship the defective part or parts, with shipping charges prepaid, to the plant or warehouse designated by GE.

The liability of GE to the Railroad (except as to title) arising out of the supplying of any unit of Equipment hereunder, or its use, whether on warranty, contract or negligence, shall not in any case exceed the cost of correcting defects in the Equipment as herein provided, and upon the expiration of the warranty period specified above, all such liability shall terminate. GE shall have no liability for any unit of Equipment or part thereof which becomes defective by reason of improper stor-

age or application, misuse, negligence, accident or improper operation, maintenance, repairs or alterations on the part of the Railroad, or any third party other than GE. The foregoing shall constitute the sole remedy of the Railroad and the sole liability of GE.

It is understood that GE has the right to make any changes in design and add improvements to Equipment at any time without incurring any obligations to install, at GE's expense, the same on other Equipment sold by GE.

GE warrants specialties not of its own specification or design to the same extent that the suppliers of such specialties warrant such items to GE. GE further agrees that the Railroad as well as GE may to the extent permitted by law take and prosecute claims against vendors of specialties purchased by GE for incorporation in the Equipment manufactured by GE for the breach of any warranty by the vendors with respect to such specialties. GE and the Railroad each agree to notify the other prior to the assertion of any claim by them against any such vendors of specialties. If GE determines that it has no interest in any such claim asserted by the Railroad, GE agrees to assign to the Railroad, solely for the purpose of making and prosecuting any such claim, all of the rights which GE has against such vendor for the breach of warranty or other representation respecting the Equipment manufactured by it. The word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes of other than GE's manufacture or design.

THERE ARE NO WARRANTIES WITH RESPECT TO MATERIAL AND WORKMANSHIP, EXPRESSED OR IMPLIED, MADE BY GE EXCEPT THE WARRANTIES SET OUT ABOVE AND EXCEPT AS SET FORTH UNDER ITEM 3(a) BELOW.

In no event, whether as a result of breach of contract, warranty, tort (including negligence) or otherwise, shall GE or its suppliers be liable for any special, consequential, incidental or penal damages including, but not limited to, loss of profit or revenues, loss of use of units of Equipment manufactured by GE or any associated equipment, damage to associated equipment, cost of capital, cost of substitute products, facilities, services or replacement power, down time costs, or claims of the Railroad's customers for such damages.

(b) General Motors Corporation ("GM") warrants to the Railroad that each unit of the Equipment manufactured or rebuilt by it hereunder will be free from defects in material, workmanship and title under normal use and service, will be of the kind and quality described in the Specification referred to in Article 2 of this Agreement and will be suitable for the ordinary purposes for which such equipment is used. The foregoing warranty is exclusive and in lieu of all other warranties whether written, oral, statutory or implied. THERE ARE NO WARRANTIES OF FITNESS FOR PARTICULAR PURPOSE. IN NO EVENT SHALL ANY WARRANTIES EXTEND BEYOND THREE (3) YEARS FROM DATE OF SHIPMENT. If it appears within three (3) years from the date of shipment by GM that a unit of Equipment delivered hereunder by GM does not meet the warranties specified above, and the Railroad notifies GM promptly, GM, after verification as to condition and usage and identification of faulty workmanship or materials, shall correct any defect including non-conformance with the Specifications, at its option, either by repairing any defective part or parts made available to GM or by making available at its plant or warehouse, a repaired or replacement part. If requested by GM, the Railroad will ship the defective part or parts, with shipping charges prepaid, to the plant or warehouse designated by GM.

The liability of GM to the Railroad (except as to title) arising out of the supplying of any unit of the Equipment hereunder, or its use, whether on warranty, contract or negligence, shall not in any case exceed the cost of correcting defects in such units as herein provided, and upon the expiration of the warranty period specified above, all such liability shall terminate. GM shall have no liability for any unit of the Equipment or part thereof built by it which becomes defective by reason of improper storage or application, wear, misuse, negligence, accident or improper operation, maintenance, repairs or alterations on the part of the Railroad or any third party other than GM.

The foregoing shall constitute the sole remedy of the Railroad and the sole liability of GM. It is understood that GM has the right to make any changes in design and add improvements to equipment at any time without incurring any obligations to install, at GM's expense, the same on other locomotives sold by GM.

GM agrees to use its best efforts to include, as a condition of its purchase order with the ven-

dor of any specialty purchased by it for incorporation in the units of Equipment manufactured by it, or to otherwise obtain an agreement by such vendor to the effect that all warranty agreements and representations, if any, made by such vendor with respect to such specialty may be enforced by the Railroad, its successors and assigns, in the Railroad's own name or in the name of such successor or assign, by GM, in GM's own name, or by GM and the Railroad, its successor or assign jointly; provided, however, that if any vendor does not accept such an agreement and GM so notifies the Railroad, GM shall have no obligation to the Railroad under this sentence if such an agreement is not contained in any such purchase order or otherwise obtained. GM further agrees that, whether or not such an agreement is contained in any such purchase order, the Railroad as well as GM may to the extent permitted by law take and prosecute claims against vendors of specialties purchased by GM for incorporation in the units of Equipment manufactured by GM for the breach of any warranty by the vendors with respect to such specialties. GM and the Railroad each agree to notify the other prior to the assertion of any claim by them against any such vendors of specialties. If GM determines that it has no interest in any such claim asserted by the Railroad, GM agrees to assign to the Railroad, solely for the purpose of making and prosecuting any such claim, all of the rights which GM has against such vendor for the breach of warranty or other representation respecting the units of Equipment manufactured by it. The word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

Item 3: (a) Except in cases of designs specified by the Railroad and not developed or purported to be developed by GE, and articles and materials specified by the Railroad and not manufactured by GE, GE warrants for itself that the units of Equipment furnished by it hereunder, and any part thereof, shall be delivered free of any rightful claim of any third party for infringement of any United States patent. If notified promptly in writing and given authority, information and assistance, GE shall defend, or may settle, at its expense, any suit or proceeding against the Railroad so far as based on a claimed infringement which would result in a breach of this warranty and GE shall pay all damages and costs awarded therein against the Railroad due to such breach. In case any unit of Equipment supplied by GE or part thereof is in such

suit or proceeding found to constitute such an infringement and the use of such unit of Equipment or part thereof is enjoined, GE shall, at its expense and option, either procure for the Railroad the right to continue using said unit of Equipment or part thereof, or replace same within six months of such injunction with noninfringing equipment or part thereof acceptable to the Railroad, or modify same so it becomes noninfringing, or remove the unit of Equipment or part thereof and refund the Purchase Price (less reasonable depreciation for any period of use) and any transportation costs separately paid by the Railroad, but in each case without impairing the operational capability of such Equipment. The preceding shall not apply to the use of any unit of Equipment or part thereof furnished hereunder in connection with any other product in a combination not furnished by GE as a part of this transaction. As to any such combination, GE assumes no liability whatsoever for patent infringement. The Railroad will give notice to GE of any claim known to the Railroad from which liability may be charged against GE hereunder.

The foregoing states the entire liability of GE to the Railroad for patent infringement by the Equipment or any part thereof.

(b) Except in cases of articles or materials specified by the Railroad and not manufactured by GM and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by GM, GM agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, costs, charges and expense, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad, its assigns or the users of the units of Equipment supplied by GM because of the use in or about the construction or operation of any of the unit of Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any United States or Canadian patents or other right. In case said unit of Equipment, or any part thereof, is held to constitute infringement and the use of said unit of Equipment or part is enjoined, GM shall at its option and at its own expense, either procure for the Railroad the right continue using said unit of Equipment or part, or replace same with noninfringing equipment, or modify it so it becomes noninfringing, or remove the entire unit of Equipment and refund the Purchase Price and the trans-

portation and installation costs thereof. The Railroad likewise will indemnify, protect and hold GM harmless from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against GM because of the use in or about the construction or operation of any unit of Equipment of any article or material specified by the Railroad and not manufactured by GM or of any design, system, process, formula or combination specified by the Railroad and not developed or purported to be developed by GM which infringes or is claimed to infringe on any patent or other right. GM agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Railroad and its assigns every claim, right and cause of action which GM has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Railroad and purchased or otherwise acquired by GM for use in or about the construction or operation of any unit of Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. GM further agrees to execute and deliver to the Railroad and its assigns or the users of units of Equipment supplied by it all and every such further assurance as may be reasonably requested by the Railroad more fully to effectuate the assignment and delivery of every such claim, right and cause of action. GM will give notice to the Railroad of any claim known to GM under which liability may be imposed upon the Railroad hereunder and the Railroad will give notice to GM of any claim known to the Railroad under which liability may be imposed upon GM hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

SCHEDULE B

<u>Type</u>	<u>Builder</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Road Numbers and Serial Numbers Inclusive</u>		<u>Estimated Time and Place of Delivery</u>
General Electric 3900 horse-power, 4-axle road freight locomotive	General Electric Company	B39-8 41A313788 REV 335S Dated 4/28/87	Erie, Pennsylvania	40	\$1,074,000	\$42,960,000	Road Numbers 80000-8039		8/1/87 through 10/30/87; delivery is FOB Erie, Pennsylvania
General Motors 3800 horsepower, 4-axle road freight locomotive	General Motors Corporation	EMD Order No. 866185 Dated 6/30/87	La Grange, Illinois	20	\$1,075,000	\$21,500,000	Serial Numbers 866185-1 to 866185-20 Road Numbers 96000-9619		September 30, 1987 - March 31, 1988, at GM Place of Delivery

AGREEMENT AND ASSIGNMENT

(Conditional Sale Indebtedness Series A Due 2002)

Dated as of June 1, 1987

Between

Each of

GENERAL ELECTRIC COMPANY,

and

GENERAL MOTORS CORPORATION,
Builders,

and

FIRST PENNSYLVANIA BANK N.A., as Agent,
Assignee

AGREEMENT AND ASSIGNMENT

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ACKNOWLEDGMENTS

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

EXHIBIT A - Form of Opinion of Railroad's Counsel

AGREEMENT AND ASSIGNMENT dated as of June 1, 1987, between FIRST PENNSYLVANIA BANK N.A. (the "Assignee"), as agent for each of the investors (the "Investors") listed on Schedule A of the Finance Agreement, dated as of June 1, 1987 (the "Finance Agreement") among the Assignee, the Railroad and each of the Investors, under the Finance Agreement, and each of GENERAL ELECTRIC COMPANY and GENERAL MOTORS CORPORATION (individually called the "Builder" and collectively the "Builders").

The Builders and SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation (the "Railroad"), have entered into a Conditional Sale Agreement (Conditional Sale Indebtedness Series A Due 2002) dated as of the date hereof (the "CSA"), covering the construction, sale and delivery, on the conditions therein set forth, by the Builders, severally, and the purchase by the Railroad of the new railroad equipment described in Schedule B to the CSA (said equipment being hereinafter called the "Equipment", each locomotive included in the Equipment being hereinafter called a "unit" of the Equipment and the Equipment constructed, sold and delivered by each Builder being hereinafter sometimes called "such Builder's Equipment" or "its Equipment").

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (this "Assignment") WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to each Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties do hereby agree as follows:

SECTION 1. Each Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of such Builder in and to each unit of its Equipment when and as delivered to and accepted by the Railroad, subject to payment by the Assignee to such Builder of the amount required to be paid to such Builder under Section 4 hereof;

(b) all the right, title and interest of such Builder in and to the CSA (except the right to construct and deliver its Equipment and the right to receive the payments specified in the third paragraph of Article 3 thereof, in the first paragraph of Article 4 thereof, in subparagraph (a) of the third paragraph of Article 4 thereof, and the last paragraph of Article 16

thereof and reimbursements for taxes paid or incurred by such Builder as provided in Article 5 thereof), and in and to any and all amounts which may be or become due or owing by the Railroad or any insurer to such Builder under the CSA in respect of the Purchase Price (as defined in the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) hereof, all such Builder's rights, powers, privileges and remedies under the CSA;

without any recourse against such Builder for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of such Builder to construct and deliver its Equipment in accordance with the CSA or with respect to its obligations contained or referred to in Article 14 of the CSA, or relieve the Railroad from its obligations to and agreements with such Builder contained or referred to in Articles 2, 3, 4, 5, 13, 14 and 16 of the CSA, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 16 of the CSA, all obligations of such Builder to the Railroad with respect to its Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against such Builder. In furtherance of the foregoing assignment and transfer, each Builder hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of and as attorney hereby irrevocably constituted for such Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and to ask, demand, sue for and enforce compliance by the Railroad with the terms and agreements on its part to be performed under the CSA, but at the expense and liability and for the sole benefit of the Assignee.

In no event, whether as a result of breach of contract, warranty, tort (including negligence) or otherwise, shall any Builder or its suppliers be liable for any special, consequential, incidental or penal damages including, but not limited to, loss of profit or revenues, loss of use of the units of Equipment manufactured by it or any associated equipment, damage to associated equipment, cost of capital, cost of substitute products, facilities, services or replacement power, down time costs, or claims of customers for such damages.

SECTION 2. Each Builder agrees that it shall construct its Equipment in full accordance with the CSA and will deliver the same upon completion to the Railroad in accordance with the provisions of the CSA; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the CSA set forth to be performed and complied with by such Builder. Each Builder further agrees that it will warrant to the Assignee and the Railroad, at the time of delivery of each unit of its Equipment under the CSA, that it has legal title to such unit and good and lawful right to sell such unit and that title to such unit is free of all claims, liens, security interests and other encumbrances (other than those created by the CSA); and each Builder further agrees that it will defend the title to each unit of its Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by such Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Railroad thereunder. On any Closing Date no Builder will deliver any of its Equipment to the Railroad under the CSA until the filings and recordations required to be made as of such date pursuant to Article 20 of the CSA have been effected as of that date (the respective Builders and their counsel being entitled to rely on advice from special counsel for the Assignee that such filings and recordations have been effected).

SECTION 3. Each Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the CSA for any installment of, or interest on, indebtedness in respect of the Purchase Price of its Equipment or to enforce any provision of the CSA, such Builder will indemnify, protect and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by such Builder of any obligation with respect to the Equipment of such Builder or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by such Builder. Each Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 16 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Railroad in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to such Builder of the asserted defense, setoff, counterclaim or recoupment

and the Assignee's giving such Builder the right, at such Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

The provisions of Item 3(a) of Schedule A to the CSA shall apply to the Assignee to the same extent as if such provision was set forth herein and the references to the Railroad in such provision meant the Assignee. General Motors Corporation ("GM") hereby agrees to afford the Assignee the same rights and protection with respect to claims for patent infringement as those afforded the Railroad under Item 3(b) of Schedule A to the CSA, as if such provisions were set forth herein and the references to the Railroad in such provisions meant the Assignee; provided, however, that the Assignee shall not be responsible for any obligation to indemnify or hold harmless GM or to give notice to GM pursuant to such provisions as incorporated herein.

Each Builder agrees that any amounts payable to it by the Railroad with respect to its Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof (other than such as result from reassignment to such Builder in accordance with the last paragraph of Section 4 hereof).

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the Builder whose Equipment shall be included in such Group and to each Builder which shall submit a supplemental invoice for settlement on such Closing Date as contemplated in Article 4 of the CSA an amount equal to the portion of the Purchase Price of such Builder's Equipment as shown on the invoice therefor then being settled for which, under the terms of subparagraph (b) of the third paragraph of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee, as provided in Article 16 of the CSA, with copies of the documents specified in clauses (a), (b), (c), (e), (f), (g), (h) and (i) to its special counsel hereinafter mentioned, at least five business days (as defined in said Article 4) prior to such Closing Date, the following documents, in form and substance satisfactory to the Assignee and its special counsel, in such number of counterparts as may be reasonably requested by said special counsel:

(a) a bill of sale from such Builder to the Assignee transferring to the Assignee the title of such Builder in such Builder's Equipment in such Group, warranting to the Assignee and to the Railroad that at the time of delivery of such units under the CSA such Builder had legal title to such units and good and lawful right to sell such units and that title to such

units was free of all claims, liens, security interests and other encumbrances (other than those created by the CSA), and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by such Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of such Builder's Equipment in such Group as contemplated by Article 3 of the CSA, accompanied by an Officers' Certificate (as defined in Article 8 of the CSA) to the effect that the inspection as contemplated by such Article 3 has been completed as to such unit or units and that each such unit conforms to the Specifications, requirements and standards applicable thereto pursuant to such Article 3;

(c) an invoice of such Builder for the units of such Builder's Equipment in such Group and any supplemental invoice (as contemplated by the last sentence of the third paragraph of said Article 4) accompanied by or having endorsed thereon an Officers' Certificate (as defined in Article 8 of the CSA) to the effect that the prices of such units are correct and represent the fair market value of such units;

(d) an opinion of Messrs. Dewey, Ballantine, Bushby, Palmer & Wood, who are acting as special counsel for the Assignee and the Investors, dated as of such Closing Date, to the effect that (i) the CSA has been duly authorized, executed and delivered by the Railroad and each Builder and is a legal, valid and binding instrument enforceable against the Railroad and each Builder in accordance with its terms, (ii) this Assignment has been duly authorized, executed and delivered by each Builder and the Assignee and is a legal, valid and binding instrument, (iii) the Finance Agreement has been duly authorized, executed and delivered by the Assignee, the Railroad and the Investors and is a legal, valid and binding instrument, (iv) the CSA and this Assignment have been duly filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and financing statements have been duly filed and recorded with the Office of the Secretary of State of the State of California, the State of Illinois and the Commonwealth of Pennsylvania, respectively, in respect of this Assignment, the CSA and the Equipment in accordance with the applicable provisions of the Uniform Commercial Code of the State of California, the State of Illinois and the Commonwealth of Pennsylvania, respectively, and such actions are sufficient for the purpose of, and no further action, nor any filing or re-filing of the aforesaid documents and/or financing statements or continuation statements

(except as specified) is necessary for, the protection of the rights of the Assignee under this Assignment and of its status as first priority lienholder with respect to the Equipment in any State of the United States of America or in the District of Columbia, (v) such counsel has caused the register maintained pursuant to 49 U.S.C. § 11303 to be searched and no record has been found of any interest in or claim, lien, security interest or other encumbrance against any unit of the Equipment in such Group or against the CSA which would rank prior to or equal with rights of the Assignee in such units or in the CSA, (vi) registration of the CSA, this Assignment or the certificates of interest issued under the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended, and (vii) based upon such investigation and inquiry as is deemed relevant and appropriate by such counsel, the opinions of counsel specified in clauses (e) and (f) of this Section 4 are satisfactory in scope and form to such special counsel and, while such investigation and inquiry into the matters covered by such opinions (other than the matters specified in clauses (iii), (iv), (v) and (vi) above) were not sufficient to enable such counsel independently to render such opinions, nothing has come to the attention of such counsel which has caused it to question the legal conclusions expressed in the opinions referred to in clauses (e) and (f) of this Section 4 and such counsel believes that the Assignee is justified in conclusively relying thereon; and such opinion shall also cover such other matters as may reasonably be requested by the Assignee;

(e) an opinion of counsel for the Railroad, dated as of such Closing Date, in substantially the form of Exhibit A hereto;

(f) an opinion of counsel for each Builder whose Equipment is being settled for on such Closing Date, dated as of such Closing Date, stating that (i) such Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the CSA has been duly authorized, executed and delivered by such Builder and, assuming the due authorization, execution and delivery thereof by the other parties thereto, is a legal and valid instrument binding upon such Builder and enforceable against such Builder in accordance with its terms and (iii) this Assignment has been duly authorized, executed and delivered by such Builder and, assuming the due authorizations, execution and delivery hereof by the

other parties hereto, is a legal and valid instrument binding upon such Builder (iv) the Assignee is vested with all the rights, title, interests, powers and privileges purported to be assigned to it by such Builder under this Assignment, and (v) title to the units of the Equipment in such Group attributable to such Builder is validly vested in the Assignee and title to such units, at the time of delivery thereof to the Railroad under the CSA, was free from all claims, liens, security interests and other encumbrances (other than those created by the CSA);

(g) a receipt from each Builder whose Equipment is being delivered on said Closing Date for any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to such Builder with respect to its Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Railroad;

(h) an Officers' Certificate dated as of such Closing Date, to the effect (i) that no Event of Default (as defined in the CSA), or event which with the lapse of time and/or demand provided for in the CSA could constitute an Event of Default, shall have occurred and is then continuing, (ii) that no tax liens (including tax liens filed pursuant to Section 6323 of the Internal Revenue Code of 1986, as amended) have been filed and are currently in effect which would adversely affect the security interest of the Assignee in the Equipment, (iii) that no taxes, assessments or governmental charges or levies are delinquent as to the Equipment and (iv) set forth in clause (ii) of the last paragraph of this Section 4; and

(i) a certificate of each Builder, dated as of such Closing Date, signed by an authorized officer of such Builder to the effect set forth in clause (iii) of the last paragraph of this Section 4.

In giving the opinions specified in subparagraphs (d), (e) and (f) of this Section 4, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinions specified in subparagraphs (d) and (e) of this Section 4, counsel may rely on the opinion of counsel for each Builder as to title to such Builder's Equipment at the time of delivery thereof under the CSA; and in giving the opinion specified in said subparagraph (d), counsel may rely as to

any matter governed by the law of any jurisdiction other than New York or the United States, on the opinion of counsel for a Builder or the opinion of counsel for the Railroad as to such matter. Prior to any Closing Date, any document specified in subparagraphs (d), (e), (f), (g), (h) and (i) of this Section 4 delivered to the Assignee pursuant to the first paragraph of this Section 4 in respect of such Closing Date shall be deemed to be held by the Assignee in escrow for the benefit of the party delivering such document, and shall be deemed released from such escrow into the possession of the Assignee on such Closing Date unless, prior to such Closing Date, the Assignee shall have received telephone direction from such party, promptly followed by written confirmation, to return such document to such party upon which the Assignee shall comply with such direction and such document shall not be deemed to have been delivered to the Assignee pursuant to the first paragraph of this Section 4, in which event the Assignee shall not be required to make payment for the Equipment pursuant to that paragraph.

The Assignee shall not be required to make payment for the Equipment assigned hereunder:

(i) at any time after the commencement of any proceedings specified in clause (f), (g), (h), (i) or (j) of Article 17 of the CSA or if an Event of Default, or any event which with the lapse of time and/or demand provided for in the CSA could constitute an Event of Default, shall have occurred and be continuing under the CSA; or

(ii) on any Closing Date, unless the units of Equipment presented for settlement on such date shall not have suffered in any material respect any Casualty Occurrence (as defined in Article 8 of the CSA); or

(iii) on any Closing Date, unless the representations and warranties of each Builder contained in Section 6 hereof shall be true on and as of that Date.

In the event that the Assignee shall not make any such payment, the Assignee shall reassign to such Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee, except that, if the Assignee shall not make payment in respect of a supplemental invoice for any Equipment after having made a payment in respect of a preliminary invoice for such Equipment, the Assignee shall retain all right, title and interest in and to such Equipment, but such Builder shall retain, as an unsecured obligation, the right to receive and collect from the Railroad the payment due under such supplemental invoice.

SECTION 5. The Assignee may assign all or any of its rights under this Assignment and the CSA, including the right to receive any payments due or to become due to it from the Railroad thereunder. In the event of any such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the CSA and this Assignment have been duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery hereof and thereof by the other parties hereto and thereto, each of the CSA and this Assignment is a valid agreement binding upon it in accordance with its terms and that each of the CSA and this Assignment is in force without amendment thereto;

(b) agrees to the assignment under the Finance Agreement by the Railroad to the Assignee and its successors and assigns of all of the Railroad's rights, powers, privileges and remedies under the CSA against such Builder, subject to any limitation of liability of such Builder set forth in Schedule A to the CSA, including, without limitation, the Railroad's rights under the warranties provided by such Builder under Article 14 of the CSA and any agreements by any vendors of specialties obtained by such Builder pursuant to its warranties, provided that such assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Railroad toward such Builder under the CSA, and provided further that such assignment shall exclude, and the Railroad shall retain its rights to the indemnification under such Article 14 as described in item (3) of Schedule A attached to the CSA; provided further that the Railroad shall continue to be bound by any limitation of liability of a Builder set forth in Schedule A to the CSA;

(c) represents, assuming the completeness and accuracy of the representations of the Investors (as defined in the Finance Agreement) set forth in Paragraph 10 of the Finance Agreement, that it has not entered into the CSA and is not entering into this Assignment, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"));

(d) agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(e) agrees that, upon request of the Assignee, its successors and assigns, it will execute any and all instruments which may be necessary or proper in order to discharge of record the CSA or any other instrument evidencing any interest of such Builder therein or in the Equipment of such Builder.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all the rights conferred as provided in Article 25 of the CSA.

SECTION 8. The rights and obligations of the Builders under this Agreement are several in accordance with their interests and not joint. Accordingly, whenever this Agreement, by the use of such designation as "the Builder", "such Builder" or other similar term, confers a right or imposes an obligation upon any corporation named in the first paragraph hereto or its successor, such right or obligation shall be construed to accrue to or to be enforceable against only the specific corporation furnishing the units of Equipment giving rise to such right or obligation and its successors as herein provided.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. Although this Assignment is dated for convenience as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

SECTION 10. The representations, warranties and the covenants of each Builder made herein shall remain operative and in full force and effect regardless of (a) any investigation made by or on behalf of the Assignee or the Investors, or (b) payment for or the assignment of any unit or units of Equipment hereunder.

SECTION 11. All documents and notices deliverable hereunder to the Assignee shall be delivered to its address at 30 South 30th Street, Philadelphia, Pennsylvania 19104, attention: Corporate Trust Administration, or as the Assignee may otherwise specify. All documents and notices deliverable hereunder to Messrs. Dewey, Ballantine, Bushby, Palmer & Wood shall be delivered to its address at 140 Broadway, New York, New York 10005, attention: Benito M. Lopez, Esq.

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 ~~XXXXXX~~*, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

*representatives

WJH
WJH

GENERAL ELECTRIC COMPANY,

by

W.S. Butler
Title:

W. S. Butler
General Manager - Transportation Systems
Marketing Department
Transportation Systems Business Operations

[CORPORATE SEAL]

Attest:

WJH
W. J. H. [Signature]
~~XXXXXX~~ Secretary
Attesting

GENERAL MOTORS CORPORATION

by

Title:

[CORPORATE SEAL]

Attest:

Assistant Secretary

FIRST PENNSYLVANIA BANK N.A.,
as Agent, Assignee

by

Authorized Officer

[CORPORATE SEAL]

Attest:

Assistant Secretary

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.

GENERAL ELECTRIC COMPANY,

by

[Title]

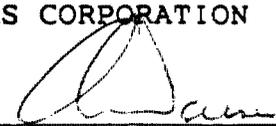
[CORPORATE SEAL]

Attest:

Assistant Secretary

GENERAL MOTORS CORPORATION

by



General Manager
Electro-Motive Division

[CORPORATE SEAL]

Attest:



Assistant Secretary

FIRST PENNSYLVANIA BANK N.A.,
as Agent, Assignee

by

Authorized Officer

[CORPORATE SEAL]

Attest:

Assistant Secretary

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.

GENERAL ELECTRIC COMPANY,

by

Title:

[CORPORATE SEAL]

Attest:

Assistant Secretary

GENERAL MOTORS CORPORATION

by

Title:

[CORPORATE SEAL]

Attest:

Assistant Secretary

FIRST PENNSYLVANIA BANK N.A.,
as Agent, Assignee

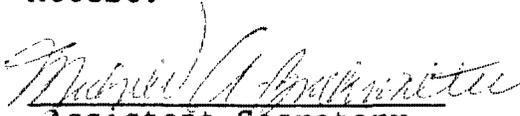
by



Authorized Officer

[CORPORATE SEAL]

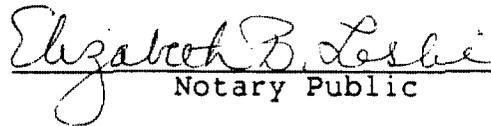
Attest:



Assistant Secretary

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

On this 8th day of July, 1987, before me personally appeared Lynn Tuzinski, to me personally known, who, being by me duly sworn, says that she is an Assistant Vice President of FIRST PENNSYLVANIA BANK N.A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

[NOTARIAL SEAL]

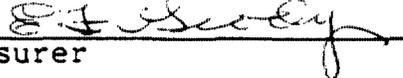
My Commission expires:

ELIZABETH B. LESLIE
NOTARY PUBLIC, State of New York
No. 31-4713008
Qualified in New York County
Commission Expires July 31, 1988

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

SOUTHERN PACIFIC TRANSPORTATION COMPANY hereby acknowledges due notice of and consents to the assignment made by the foregoing Agreement and Assignment as of June 1, 1987.

SOUTHERN PACIFIC TRANSPORTATION COMPANY,

By 
Treasurer

Form Approved:


Assistant General Attorney

[FORM OF OPINION OF RAILROAD'S COUNSEL]

[Date of Closing]

To First Pennsylvania Bank N.A.,
as Agent for Each of the Investors
listed on Schedule A of the Finance
Agreement, dated as of June __, 1987
among First Pennsylvania Bank N.A.,
Southern Pacific Transportation Com-
pany and each of the Investors:

Dear Sirs:

I have acted as general counsel for the Southern Pacific Transportation Company, a Delaware corporation (the "Railroad"), in connection with the Conditional Sale Agreement, dated as of June __, 1987 (the "CSA"), among the Railroad, General Electric Company and General Motors Corporation, the Agreement and Assignment, dated as of June __, 1987 (the "Assignment"), among General Electric Company, General Motors Corporation and you (the "Agent"), and the Finance Agreement, dated as of June __, 1987 (the "Finance Agreement"), among the Railroad, the Agent, and each of the Investors, respectively. This opinion is being delivered pursuant to Section 4(e) of the Assignment. All terms used herein that are defined in the CSA or the Finance Agreement have the respective meanings specified therein.

In this connection, I have examined such certificates of public officials, certificates of officers of the Railroad and copies certified to my satisfaction of corporate documents and records of the Railroad and of other papers, and have made such other investigations, as I have deemed relevant and necessary as a basis for my opinion hereinafter set forth. I have relied upon such certificates of public officials and of officers of the Railroad with respect to the accuracy of material factual matters contained therein which were not independently established. With respect to the opinion expressed in paragraph 4 below, I have also relied upon the representation made by each Investor in the first subparagraph of Paragraph 10 of the Finance Agreement.

Based on the foregoing, it is my opinion that:

1. The Railroad is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware.

2. The Railroad has the corporate power to own its property to carry on its business as now being conducted and is duly qualified or otherwise authorized as a foreign corporation to do business and in good standing in each jurisdiction where the nature of the business transacted or properties owned by it makes such qualification necessary. The Railroad has been issued by the Interstate Commerce Commission all certificates of public convenience and necessity required for the operation and/or construction of the Railroad's railroad lines, and all such certificates are currently in full force and effect.

3. The CSA, the Acknowledgment of Notice of Assignment attached to the Assignment (the "Acknowledgment") and the Finance Agreement have been duly authorized by all requisite corporate action and duly executed and delivered by authorized officers of the Railroad, and are valid obligations of the Railroad, legally binding upon and enforceable against the Railroad in accordance with their respective terms, except as such enforceability may be limited by (a) bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), and the Certificates of Interest are entitled to the benefits of the Finance Agreement.

4. It is not necessary in connection with the execution and delivery of the CSA, the Assignment or the offering, issuance, sale and delivery of the Certificates of Interest under the circumstances contemplated by the Finance Agreement to register the CSA, the Assignment or the Certificates of Interest under the Securities Act of 1933, as amended, or to qualify an indenture with respect thereto under the Trust Indenture Act of 1939, as amended.

5. Neither the extension, arranging and obtaining of the credit represented by the Certificates of Interest nor the use of proceeds thereof in accordance with the Finance Agreement results in any violation of Regulation G, T, U or X of the Board of Governors of the Federal Reserve System.

6. The Railroad is not in violation of or in default under any term or provision of any charter, by-law, partnership agreement, mortgage, indenture, agreement, instrument, statute, rule, regulation, judgment, decree, order, writ or injunction applicable to it, such that such

violations or defaults might materially and adversely affect the ability of the Railroad to perform its obligations under the CSA or the Finance Agreement or the validity or enforceability of the Acknowledgment.

7. There is no action, suit, investigation or proceeding pending or, insofar as is known to me after having made due inquiry with respect thereto, threatened against the Railroad or any properties or rights of the Railroad or any of its Subsidiaries, by or before any court, arbitrator or administrative or governmental body which might materially and adversely affect the ability of the Railroad to perform its obligations under the CSA or the Finance Agreement or which brings into question the authenticity, validity or enforceability, in any respect material to the Agent, of (1) any sale of any Certificate of Interest pursuant to the Finance Agreement, (2) any other transactions contemplated by the CSA or the Finance Agreement, (3) the purchase by the Railroad of the Equipment under the CSA, (4) the acquisition or ownership by the Agent of title to, or a first priority security interest in, the Equipment under the Assignment, (5) the Acknowledgment or (6) any certificates and any other documents or instruments referred to in the CSA or the Finance Agreement.

8. The execution and delivery of the CSA, the Acknowledgment and the Finance Agreement, the offering, issuance and sale of the Certificates of Interest and fulfillment of and compliance with the respective provisions of the CSA, the Acknowledgment, the Finance Agreement and the Certificates of Interest do not conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in any violation of, or result in the creation of any lien upon any of the properties or assets of the Railroad pursuant to, the charter or by-laws of the Railroad, any applicable law (including any securities or Blue Sky law), statute, rule or regulation or (insofar as is known to me after having made due inquiry with respect thereto) any agreement (including any agreement with stockholders), any award of any arbitrator, instrument, order, judgment or decree to which the Railroad is a party or otherwise subject.

9. Insofar as is known to me after having made due inquiry with respect thereto, neither the nature of the Railroad nor any of its businesses or properties, nor any relationship between the Railroad and any other person, nor any circumstances in connection with the execution and delivery of the CSA, the Assignment, the Finance Agreement or the Acknowledgment or the offering, issuance, sale or delivery of the Certificates of Interest is such as to require any authorization, consent, approval, exemption or other action by or notice to or filing with any court or administrative or governmental body (other than routine filings

after the date of closing with the Interstate Commerce Commission, the Securities and Exchange Commission and/or state Blue Sky authorities) in connection with the execution and delivery of the CSA, the Assignment, the Finance Agreement or the Acknowledgment or the offering, issuance, sale or delivery of the Certificates of Interest or fulfillment of or compliance with the terms and provisions thereof, or, if any such authorization, consent, approval, exemption, other action or notice or filing is necessary, it has been obtained, given or made.

10. Section 3440 of the California Civil Code applies to neither the sale to, and purchase by the Railroad of, the Equipment pursuant to the CSA, nor the acquisition or ownership by the Agent of title to, or a first priority security interest in, the Equipment under the Assignment, nor the possession and use of the Equipment by the Railroad or any of its affiliates under the CSA in California nor all of the foregoing transactions taken as a whole.

11. The CSA and the Assignment have been duly filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and financing statements have been duly filed and recorded with the Office of the Secretary of State of the State of California and of the State of Illinois, respectively, in respect of the Assignment, the CSA and the Equipment in accordance with the applicable provisions of the Uniform Commercial Code of the State of California and of the State of Illinois, respectively, and such actions are sufficient for the purpose of, and no further action, nor any filing or refileing of the aforesaid documents and/or financing statements or continuation statements (except as specified) is necessary for, the protection of the rights of the Agent under the Assignment and of its status as first priority lienholder with respect to the Equipment in any State of the United States of America or in the District of Columbia.

Very truly yours,